



**TOWN OF SOUTHERN SHORES**  
**TOWN COUNCIL REGULAR MEETING**

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

[www.southernshores-nc.gov](http://www.southernshores-nc.gov)

**PITTS CENTER**

**Tuesday, June 07, 2022 at 5:30 PM**

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## **MINUTES**

### **Call Meeting to Order**

Pledge of Allegiance

Moment of Silence

### **PRESENT**

Mayor Elizabeth Morey

Mayor pro tem Matt Neal

Council Member Leo Holland

Council Member Paula Sherlock

Council Member Mark Batenic

### **Amendments to / Approval of Agenda**

**Motion** made by Council Member Batenic to approve the agenda with an amendment to move agenda item #9 (attorney contract) to follow item #4 (Tourism Board presentation) and remove item #6 (ZTA 22-05), Seconded by Council Member Holland. The motion passed unanimously (5-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

### **Consent Agenda**

Motion made by Council Member Holland to approve the consent agenda as presented, Seconded by Council Member Sherlock. The motion passed unanimously (5-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

1. Uniform Guidance Policy for American Rescue Plan
2. Grant Project Ordinance for American Rescue Plan
3. Approval of Minutes 4/5/22, 4/14/22, 5/3/22, 5/17/22

### **Presentations**

4. Dare County Tourism Board Presentation-Lee Nettles and Tim Cafferty presented an overview of the proposed Outer Banks Event Center in Nags Head, NC. Annually, the Indoor Event Center and Event Lawn are projected to generate and/or support \$25,150,000 in new spending, \$1,171,000 in new tax revenue and the creation of 191 new jobs (9 full-time at Event Center). The center would create an indoor and outdoor event site for year-round events, banquets, galas, speakers, sports, concerts, and a culinary training kitchen.

5. Discussion of Town Attorney Contract-Town Attorney Ben Gallop will be leaving the firm of Hornthal, Riley, Ellis and Maland in July and introduced several of the firm's attorneys, along with Phillip Hornthal, who will be replacing Mr. Gallop as the Town Attorney after the July 5<sup>th</sup> Council meeting.

### **Staff Reports**

**Deputy Town Manager/Planning Director** Wes Haskett presented the permit report for May. The Planning Board's next meeting is June 20<sup>th</sup> and ZTA 22-07 commercial design standards may be on the agenda, along with the sign ordinance.

**Police Chief**-presented the police report for the month of May.

**Fire Chief**- presented the police report for the month of May.

### **Town Manager-**

**Traffic Update**-barricades closing Hickory Trail completely were not well received. Those barricades will be reduced and local traffic only signs and no outlet will be utilized. More water will be placed in the barricades as they were being moved by citizens.

**Beach Nourishment**-CTE was surveying Southern Shores beaches today. Kill Devil Hills staging has started and both dredges are on their way.

**NCDOT** -has placed a message board with the speed limit reduction on Ocean Blvd.

**Town Attorney**-the Town will be filing an Amicus Brief on Monday, June 13<sup>th</sup>. All beach nourishment easements received have been filed. His last meeting as Town Attorney will be July 5<sup>th</sup>.

**General Public Comment** -none

**Old Business**-none

### **New Business**

#### **6. Public Hearing -Town Manager's FY2022-23 Recommended Budget**

A Public Hearing is being held on the Manager's Recommended Budget, which was presented to the Council at its May 3, 2022, Council Meeting. The recommended budget has been available on-line and in the Town Clerk's Office and meets the requirements listed in the below General Statute.

Town Manager Ogburn stated Town Council held a budget workshop at its May 17, 2022, Council Meeting. The following changes are recommended to the Manager's Budget presented on May 3, 2022.

- Increase Land transfer revenue to offset an increase in COLA from 3.5% to 5%
- Reduce the Bridge Maintenance line item in the PW Budget
- Reduce Vehicle Operations (Fuel in PW)
- Remove funding for PW mower to be purchased out of current year funds
- Increase the contribution to Capital Reserve Fund for Canal Maintenance from \$20,000 to \$100,000

Town Manager Ogburn stated if these changes are approved, the use of unassigned fund balance to balance the budget would increase from \$312,671 to \$365,309. Additionally, staff is requesting the Town Council to adopt by separate motion, Ordinance #2022-06-02 which will amend the Town Fee Schedule.

Town Manager Ogburn also presented Council with and amended ordinance that removed the wording *channel maintenance*. In 2007 the Town created, by resolution, a Capital Reserve Fund and then amended it in 2012. The language in that Capital Reserve Fund establishes a use for canals and bulkheads. The budget ordinance somewhere along the line added the word channel, staff is requesting that wording be removed.

Town Attorney Gallop opened the public hearing and called for comment. Hearing no citizen wishing to provide comment, Attorney Gallop closed the public hearing.

Mayor Morey reiterated some key points:

- No recommended change in the ad valorem tax rate.
- Use of just over \$365,000 from the unassigned fund balance to balance the budget.
- Council and the public have had this information for more than a month, and retreat to discuss the budget, concerns, and future items was held by Council.

Mayor Morey asked if there was any other questions or comments from Council Members?

Council Member Sherlock stated there has been a lot of input from the staff and department heads, and she feels very secure about this budget.

Council Member Batenic stated staff has been very open and it is a reasonable budget for the town and the citizens.

**Motion** made by Council Member Holland to approve budget ordinance 2022-06-01 for FY2022-2023 with an amendment to remove the wording, "channel maintenance" from Section II, Seconded by Council Member Batenic. Motion passed unanimously (5-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

**Motion** made by Council Member Sherlock to adopt the amended Fee Schedule 2022-06-02, Seconded by Council Member Holland. The motion passed unanimously (5-0).

7. Public Hearing-ZTA-22-05, a Zoning Text Amendment application submitted by Stacia and Marc LeBlanc to amend Town Code Section 36-202(d)(6), Maximum Allowable Lot Coverage

Application withdrawn by applicant; item removed from agenda.

8. Public Hearing-ZTA-22-06, a Zoning Text Amendment application submitted by Quible & Associates, P.C. on behalf of Ginguite, LLC to amend Town Code Section 36-207(c), Conditional Uses.

Town Attorney Gallop opened the public hearing and called on Planning Director Haskett for a staff report.



Town Planner Wes Haskett reviewed the agenda summary and staff report which read as, the applicant is proposing a Zoning Text Amendment (ZTA) to amend Section 36-207(c) to allow the group development of commercial and residential buildings as a Conditional Use in the C, General Commercial zoning district. The use would be permitted through the issuance of a Conditional Use Permit (Special Use Permit per 160D Statutes). Section 36-207 currently allows the group development of commercial buildings only (the Marketplace and Southern Shores Crossing). Section 36-207 also currently allows residential uses including detached single-family dwellings, two-family (duplexes) dwellings, multifamily dwellings, and accessory buildings, but such uses would be limited to only one principal building and its customary accessory building on any lot. If approved, the ZTA would allow group developments consisting of multiple principal commercial and residential buildings on a single lot subject to the following requirements:

- a. Minimum size of any building shall be 2,500 square feet.
- b. All buildings constructed within 35 feet of another building within the development are to be connected by a breezeway or covered walkway.
- c. Lot shall be serviced by an existing community wastewater treatment facility permitted by NC DEQ DWR.
- d. Residential density shall be limited to RS-8 District allowances as established within Sec. 36-203(a).
- e. No more than 40% lot coverage of the net parcel area can be associated with building footprints containing residential uses and the required parking for residential uses.

With respect to lot coverage, two calculations would be required in order to demonstrate compliance (if the ZTA and a site plan are approved). One lot coverage calculation would need to show that the total lot coverage for the development does not exceed 60% of the total lot area, or 67% if permeable pavement in excess of 5 percent of the total lot coverage is provided. The other lot coverage calculation would need to show that the lot coverage for residential building footprints and residential parking spaces does not exceed 40% of the net parcel area. Net parcel area is defined as the total area to be developed minus any area covered by waterways, marshes or wetlands.

The following properties could potentially meet the proposed requirements for group developments consisting of commercial and residential buildings:

- 5391 N. Virginia Dare Trl. (Stone property): 7.9 acres
- 5500 N. Croatan Hwy. (Marketplace): 18.1 acres
- 5355 N. Croatan Hwy. (Southern Shores Realty Maintenance): 4.1 acres
- 1 Ocean Blvd. (Southern Shores Crossing)
- 6195 N. Croatan Hwy. (Ginguite, LLC): 5.2 acres

During Council consideration, questions and discussion should mainly focus on the ZTA and not on a potential site plan for the proposed use. Policy 2 of the Town's Land Use Plan establishes the commercial district as a small district for convenience shopping and services. The Land Use Plan also establishes that incompatible uses in the commercial area are limited to "residential (low density)", educational, and conservation activities. Since commercial and residential group developments will most likely consist of high density residential development mixed with commercial development, Town



Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan.

Town Staff and Chairperson Ward spent a considerable amount of time reviewing and discussing the application. As a result, Chairperson Ward suggested additional requirements to be added to the proposed language that clarify the requirements for "mixed use group developments" by showing them in one section of the Zoning Ordinance. Another additional requirement establishes a 50% lot coverage requirement based on the net parcel area, or 55% if permeable pavement is used in excess of 5 percent of the total lot coverage. The Town Planning Board determined that the application is consistent with the Town's currently adopted Land Use Plan and recommended denial (4-1) of the application as presented. However, it recommended approval of the ZTA with Chairperson Ward's additional requirements and a minimum 25% lot coverage requirement for residential building footprints and parking spaces.

The Board's recommended requirements are shown in PB-ZTA-22-06. Town Staff recommends approval of the application with the Planning Board's recommended requirements. Going forward, Council has the following options:

1. Approve the ZTA as presented.
2. Deny the ZTA as presented.
3. Table consideration of the ZTA.
4. Approve the ZTA with the Planning Board's recommended requirements.
5. Amend the ZTA (which may require another Planning Board review).
6. Send the ZTA back to the Planning Board for further discussion.

Council Member Batenic stated it seems changes were made for one property specifically but stated he would wait to hear the full reports and comments.

Sumit Gupta representing the applicant addressed Council and what prompted the text amendment. They own a 5-acre commercial property in Southern Shores, and it can currently be developed commercially, which was their original plan. We then thought it would be beneficial to the area and the town to have some multi-family residential. The ordinance as it reads now you can do multi-family or commercial, just not both. The Planning Board brought up their concerns which he felt was addressed, with the exception of lot coverage. It is a commercial lot with the ability of 60% lot coverage, 67% with the use of permeable materials. Mr. Gupta stated the commercial lot coverage should remain. The text amendment places a density cap and was updated to reflect no more than 40% of the property can be developed into residential. He further stated they do not see it as a density increase, they see it as trading off commercial space on that property for residential space. The Planning Board would like to see 50% lot coverage, but he feels that the property should not be penalized for trading off commercial for residential. He stated if Council feels that would be beneficial, they do not know if they would do the mix use because they are losing lot coverage. They were fine with the other Planning Board suggestions.

Mayor Morey stated if the Council was to adopt the zoning text amendment, the applicant is not compelled to move forward with development of the lot. Mr. Gupta stated that would be correct. The amendment applies to group development of commercial and residential buildings as a Conditional Use in the C, General Commercial zoning district.

Council Member Sherlock was in favor of mix-use.

Mr. Gupta stated they do not have the intention to sell the property and if developed with the mix-use, it would be luxury condos. This would provide something than single family homes in Southern Shores.

Council Member Batenic stated this would apply to not just the applicant's property. Mayor pro tem Neal stated it applied to all in District C. General Commercial District.

Town Attorney Gallop stated any properties in that commercial zone that meets the requirements.

Council Member Holland stated this would be new for the Town and would like to make sure it is being done properly and with thought.

Council Member Sherlock asked Mr. Sumit to review exactly what change they are requested that differ from what the Planning Board's recommendation.

- Planning Board placed some dimensional requirements, applicant is fine with this request as they understand it would be a requirement regardless.
- Minimum residential of 25%, applicant is fine with that requirement.
- Planning Board would like to go to 50% and it should be "net" coverage, applicant does not agree with commercial lot coverage being penalized and the use of "net" coverage reduces it even more.
- At a minimum if lot coverage is reduced take the term "net" out. This would be too severe of a penalty, and they could not move forward with a mix-use development.

Mayor pro tem Neal stated if you develop commercial on the bottom and residential on top, vertical coverage, it goes towards residential coverage. Mr. Gupta replied, yes and the same for side by side attached. A fully separate commercial building would be commercial coverage.

Mayor pro tem Neal stated net parcel area is not a definition in our zoning, net acreage is, with net parcel area what is the interpretation. Mr. Gupta stated it would be taking the property and the uplands would only be considered. Mayor pro tem Neal stated than residential use is 40% of the net acreage for using our terminology but the commercial lot coverage is total parcel area. He stated lot coverage is total parcel area currently in every residential and commercial district in Southern Shores.

Mayor pro tem Neal asked Mike Strader with Quible and Associates how this mix-use ordinance compares to other towns? Mr. Strader stated this application is more restrictive because the commercial group development is limited by the maximum allowable lot coverage that is specified by the commercial zoning (60% of total lot area). A further restriction of 40% of the net parcel area was placed on by the applicant themselves. It is more restrictive than any other local ordinances he has seen to date.

Planning Board Chair Andy Ward provided his comments. He stated the Planning Board seemed to agree with the 50% lot coverage, which is a blend of the 40% residential and 60% commercial. This amendment will be town wide, and the board was in favor of mix-use but cautious how to approach it for the future. He stated he did not have an issue rearranging the wording of the septic wastewater system to allow other properties the same, if that is what Council wants to do.

Town Attorney Gallop called on the public for comment.

Public Comment-Mike Stone-8 Sandfiddler Ct-this text amendment applies to several of his properties. He would like to not have the lot coverage reduced, keep commercial at 60%. The wastewater requirement should be removed.

Hearing no other comment, Town Attorney Gallop closed the public hearing.



Mayor Morey called for a brief recess at 7:20 p.m.

Council reconvened at 7:24 p.m.

Mayor pro tem Neal asked why the dimensional requirements were recommended by the Planning Board if they already apply?

Planning Director Haskett stated it would be a good to have them referenced in the same area, even if it is duplicated elsewhere.

Council Member Holland stated it appears item L is the difference of opinion.

Planning Director Haskett stated that is correct, the lot coverage. He stated in reference to an earlier question of definition. He has considered net parcel and net acreage to be the same.

Mayor Morey stated lot coverage is based on total lot area in the town, whether it is a residential lot or a commercial lot. Essentially, this is a commercial development and pulling in dense residential. The idea of mix use development is a good idea for the Town of Southern Shores. She would like to see 60% lot coverage like other commercial areas or at the very least use total parcel area if it was to be dropped down from the 60%. She felt it was an overall good idea for the town.

Council Member Holland asked what the 60% coverage would do, less or more restrictive?

Mayor pro tem Neal stated it would match what we currently have in the commercial district, 60%. He also stated if you reduce the lot coverage and an established commercial area such as the Marketplace wanted to do a mix use development, you would be requiring them to now reduce their lot coverage.

**Motion** made by Mayor pro tem Neal to adopt ZTA-22-06 with Planning Board recommendation with deletion of L&M, Seconded by Mayor Morey. Motion passed unanimously (5-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

#### 9. Planning Board Appointments

**Motion** made by Council Member Sherlock to reappoint Linda Burek and Tony DiBernardo to another three-year term expiring June 30, 2025 and appoint Dan Fink to fill the Alternate #2 vacancy position, Seconded by Council Member Holland. Motion passed unanimously (5-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

**General Public Comment** -none

#### **Council Business**

Council Member Holland provide a Tourism Board report for the month of March, occupancy was up 18%, 7% year to date and Meals were up 6%, 11% year to date.

Mayor Morey stated she was sworn in as District One Representative on the NC League of Municipalities Board.

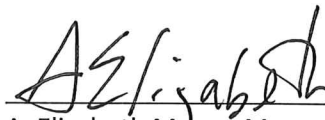
Mayor pro tem Neal stated we passed a budget for this year with use of the unassigned fund balance. Next year Council will need to have some talks about balancing the budget without use of this fund.

**Adjourn**

Motion made by Mayor Morey to adjourn the meeting at 7:52 p.m., Seconded by Council Member Holland. The motion passed unanimously (5-0).

Voting Yea: Mayor Morey, Mayor pro tem Neal, Council Member Holland, Council Member Sherlock, Council Member Batenic

ATTEST:

  
A. Elizabeth Morey, Mayor



Respectfully submitted,

  
Sheila Kane, Town Clerk

The attached documents are incorporated herewith and are hereby made a part of these minutes.



## Uniform Guidance Procurement Policy For The Town of Southern Shores for Contracts Supported by Federal Financial Assistance

### I. Purpose

The purpose of this Uniform Guidance Procurement Policy (the “Policy”) is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are used in whole or in part to pay for the cost of the contract. To the extent that other sections of procurement policies and procedures adopted by Town of Southern Shores (the “Town”) are more restrictive than those contained in this Policy, local policies and procedures shall be followed.

### II. Policy

- A. Application of Policy.** This Policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any subrecipient of the funds. This policy need not be followed when a contract for purchase, services, or construction or repair work is not funded with federal financial assistance, but in such cases any applicable state or local bidding and purchasing requirements must still be followed.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (the “Uniform Guidance”) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

- B. Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200.326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The Town will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the Town have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.
- C. Contract Award.** All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.
- D. No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.

- E. Contract Requirements.** All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or, where applicable, incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.<sup>1</sup>
- F. Contractors' Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.
- G. Approval and Modification.** The administrative procedures contained in this Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.

### **III. General Procurement Standards and Procedures:**

Either the Purchasing Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section III of the Policy.

- A. Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.
- B. Clear Specifications.** All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.
- C. Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.
- D. Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.

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<sup>1</sup> Certain parts of 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II require that contracts contain certain contractual terms, but those parts do not provide the applicable contract language. In such cases, incorporation by reference will not be sufficient and the written contract will need to include the applicable language.



- E. Fixed Price.** Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a “Not to Exceed” amount. A time and materials contract shall not be awarded without express written permission of the federal agency or state pass-through agency that awarded the funds.
- F. Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and “or equal” must be included in the description.
- G. Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.
- H. Dividing Contract for M/WBE Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises (“M/WBE”). The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.
- I. Documentation.** Documentation must be maintained by the Purchasing Department and/or the Requesting Department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor’s responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.
- J. Cost Estimate.** For all procurements costing \$250,000 or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.
- K. Contract Requirements.** The Requesting Department must prepare a written contract incorporating the provisions referenced in Section II.E of this Policy.
- L. Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder’s list.

- M. Contractor Oversight.** The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.
- N. Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for “or equal” products, or other unnecessary requirements that have the effect of restricting competition.
- O. Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.

#### IV. Specific Procurement Procedures

Either the Purchasing Department or the Requesting Department shall solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

- A. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing less than \$10,000** shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:
1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable based on research, experience, purchase history, or other information.
  2. To the extent practicable, purchases must be distributed among qualified suppliers.
- B. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$10,000 up to \$90,000** shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:
1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
  2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
  3. Cost or price analysis is not required prior to soliciting bids.
  4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
  5. Award the contract to the lowest responsive, responsible bidder.
- C. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$90,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. § 143-129) as follows:



1. Cost or price analysis is required prior to soliciting bids.
2. Complete specifications or purchase description must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board at a regular meeting. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for “sound documented reasons.”

***Note Regarding Service Contracts Costing \$90,000 up to \$250,000:*** Local government service contracts are not subject to state competitive bidding requirements. If a local government does not require competitive proposals (RFPs) for service contracts under its local policy, it may choose to follow the Uniform Guidance small purchase procedure for service contracts costing \$10,000 up to \$250,000, and then follow the Uniform Guidance sealed bid or competitive proposal method for service contracts costing \$250,000 or more. If the local policy regarding service contracts is more restrictive, the local policy should be followed.

**D. Service Contracts** (except for A/E professional services) **costing \$250,000 and above** may be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. The procedures are as follows:

1. A Request for Proposals (“RFP”) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
4. Consider all responses to the publicized RFP to the maximum extent practical.
5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with most advantageous proposal taking into account price and other factors identified in the RFP. Governing board approval is required.
7. Award the contract on a fixed-price or cost-reimbursement basis.

**E. Construction and repair contracts costing less than \$10,000** shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
2. To the extent practicable, contracts must be distributed among qualified suppliers.

**F. Construction and repair contracts costing \$10,000 up to \$250,000** shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract on a fixed-price or, subject to the restrictions set forth in Section III.E., above not-to-exceed basis.
5. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required.

**G. Construction and repair contracts costing \$250,000 up to \$500,000** shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Publicly advertise the bid solicitation for a period of time sufficient to give bidders notice of the opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required. Any and all bids may be rejected only for “sound documented reasons.”

**H. Construction and repair contracts costing \$500,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board at a regular meeting. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject and all bids only for “sound documented reasons.”

**I. Construction or repair contracts involving a building costing \$300,000 and above** must comply with the following additional requirements under state law:

1. Formal HUB (historically underutilized business) participation required under N.C.G.S. § 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under N.C.G.S. 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under N.C.G.S. § 143-129(a1).

**J. Contracts for Architectural and Engineering Services costing under \$250,000** shall be procured using the state “Mini-Brooks Act” requirements (N.C.G.S. § 143-64.31) as follows:

1. Issue a Request for Qualifications (“RFQ”) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.

3. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Town's Purchasing Department and/or Requesting Department.
4. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.
5. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
6. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is required.

**K. Contracts for Architectural and Engineering Services costing \$250,000 or more shall be procured using the Uniform Guidance "competitive proposal" procedure (2 C.F.R. § 200.320(d)(5)) as follows:**

1. Publicly advertise a RFQ to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
4. Proposals must be solicited from an "adequate number of qualified sources" (an individual federal grantor agency may issue guidance interpreting "adequate number").
5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
6. Consider all responses to the publicized RFQ to the maximum extent practical.
7. Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
8. Price cannot be a factor in the initial selection of the most qualified firm.
9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is required.



## V. Exceptions

Non-competitive contracts are allowed *only* under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

- A. Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.
- B. Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.
- C. Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.
- D. Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.
- E. Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.

Adopted this 7<sup>th</sup> day of June, 2022

**Grant Project Ordinance for the Town of Southern Shores American Rescue Plan Act of 2021: Coronavirus State and Local Fiscal Recovery Funds**

**BE IT ORDAINED** by the town council of the Town of Southern Shores, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

**Section 1:** This ordinance is to establish a budget for a project to be funded by the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF). The Town of Southern Shores has received the first tranche in the amount of \$471,353.52 of CSLFRF funds. The total allocation is \$942,707.04, with the remainder to be distributed to the Town within 12 months. These funds may be used for the following categories of expenditures, to the extent authorized by state law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
4. Provide premium pay for essential workers, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

**Section 2:** The Town has elected to take the standard allowance, as authorized by 31 CFR Part 35.6(d)(1) and expend all its ARP/CSLFRF funds for the provision of government services.

**Section 3:** The following amounts are appropriate for the project and authorized for expenditure:

Internal Project Code	Project Description	Expenditure Category (EC)	Cost Object	Appropriation of ARP/CSLFRF Funds
001	Law Enforcement Services for period of July 1, 2021 through March 31, 2023	6.1	Salaries	\$750,000.00
			Benefits	\$192,707.04
	<b>TOTAL</b>			<b>\$942,707.04</b>

**Section 4:** The following revenues are anticipated to be available to complete the project:

**ARP/CSLFRF Funds:** \$942,707.04

**Total:** **\$942,707.04**

**Section 5:** The Finance Officer is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements, including payroll documentation and effort certifications, in accordance with 2 CFR 200.430 & 2 CFR 200.431 and the Town's Uniform Guidance Allowable Costs and Cost Principles Policy.

**Section 6:** The Finance Officer is hereby directed to report the financial status of the project to the governing board on a quarterly basis.

**Section 7:** Copies of this grant project ordinance shall be furnished to the Budget Officer, the Finance Officer and to the Clerk to Town Council.

**Section 8:** This grant project ordinance is effective as of March 3, 2021, and expires on December 31, 2026, or when all the ARP/CSLFRF funds have been obligated and expended by the Town, whichever occurs sooner.

**Section 9:** The following amounts are hereby transferred to the Town's FY 2021-2022 Operating Budget to reimburse salaries and benefits in the Police Department for the period of July 1, 2021 through June 30, 2022:

\$471,353.52

**Section 10:** The following amounts are hereby transferred to the Town's FY 2022-2023 Operating Budget to reimburse salaries and benefits in the Police Department for the period of July 1, 2022 through June 30, 2023:

\$471,353.52

Adopted this 7th day of June, 2022

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Elizabeth Morey, Mayor

ATTEST:

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Sheila Kane, Town Clerk



## AGENDA ITEM SUMMARY # 5

**MEETING DATE:** June 7, 2022

**ITEM TITLE:** Public Hearing -Town Manager's FY2022-23 Recommended Budget

**ITEM SUMMARY:** The Public Hearing is being held on the Manager's Recommended Budget, which was presented to the Council at its May 3, 2022 Council Meeting. The recommended budgeted has been available on-line and in the Town Clerk's Office and meets the requirements listed in the below General Statute.

NCGS § 159-12. Filing and publication of the budget; budget hearings.

(a) On the same day that he submits the budget to the governing board, the budget officer shall file a copy of it in the office of the clerk to the board where it shall remain available for public inspection until the budget ordinance is adopted. The clerk shall make a copy of the budget available to all news media in the county. He shall also publish a statement that the budget has been submitted to the governing board and is available for public inspection in the office of the clerk to the board. The statement shall also give notice of the time and place of the budget hearing required by subsection (b) of this section.

(b) Before adopting the budget ordinance, the board shall hold a public hearing at which time any persons who wish to be heard on the budget may appear. (1927, c. 146, s. 7; 1955, cc. 698, 724; 1971, c. 780, s. 1; 2020-3, s. 4.27(a).)

The Town Council held a budget workshop at its May 17, 2022 Council Meeting.

The following changes are recommended to the Manager's Budget presented on May 3, 2022

- Increase Land transfer revenue to offset an increase in COLA from 3.5% to 5%
- Reduce the Bridge Maintenance line item in the PW Budget
- Reduce Vehicle Operations (Fuel in PW)
- Remove funding for PW mower to be purchased out of current year funds
- Increase the contribution to Capital Reserve Fund for Canal Maintenance from \$20,000 to \$100,000

If these changes are approved, the use of unassigned fund balance to balance the budgeted would increase from \$312,671 to \$365,309

Additionally, staff is requesting the Town Council to adopt by separate motion, Ordinance #2022-06-02 which will amend the Town Fee Schedule.



**STAFF RECOMMENDATION:** Staff recommends approval of the Manager's Recommended budget with the changes indicated above.

**REQUESTED ACTION:** A motion to approve the attached Budget Ordinance #2022-06-01. A motion to adopt Fee Schedule Ordinance #2022-06-02

**ATTACHMENTS:**       FY 2022-2023 Budget Ordinance  
                              Consolidated Fee Schedule  
                              Recommended FY 2022-2023 Line-Item Budgets



# Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

Ordinance No. 2022-06-01

## An Ordinance of the Southern Shores Town Council Adopting a Budget and Tax Rate for FY 2022-23

**BE IT ORDAINED** by the Town Council of the Town of Southern Shores, North Carolina that the following be the various budgets for FY 2022-23:

### SECTION I. GENERAL FUND

- A. Appropriations: The following amounts are appropriated for the operation of the Town government and its activities for the fiscal year beginning July 1, 2022 and ending June 30, 2023:

Administration Department	\$ 1,211,333
Code Enforcement & Inspections Department	\$ 419,826
Fire Department	\$ 1,004,243
Ocean Rescue Services	\$ 184,000
Police Department	\$ 2,113,039
Public Works Department	* \$ 602,741
Public Works Department – Streets, Bridges, Beaches & Canals	* \$ 2,276,039
Sanitation Services	\$ 879,555
Contribution to Capital Reserve Fund for Canals	\$ 100,000
<b>Total General Fund Appropriations</b>	<b>\$ 8,790,776</b>

- B. Estimated Revenues: It is estimated that the following revenues will be available during the fiscal year beginning July 1, 2022 and ending June 30, 2023 to meet foregoing appropriations:

Property Taxes- Current Year	\$ 3,133,958
NCVTS- Current Year	\$ 102,321
MSD 1 Taxes	\$ 194,100
MSD 2 Taxes	\$ 173,574
Town Wide – Beach Nourishment	\$ 657,850
Property & Vehicle Taxes- Prior Years, Penalties and Interest	\$ 8,000
Subtotal: Property and Vehicle Taxes	\$ 4,269,803
Land Transfer	\$ 350,735
Local Option Sales Tax	\$ 1,400,000
Occupancy Tax	\$ 1,381,935
Other Intergovernmental Revenues	\$ 662,979
Building Permits & Fees	\$ 172,500
Unassigned Fund Balance	\$ 365,309
Transfer IN from Capital Reserve Fund	\$ 177,415
Other Revenues	\$ 10,100
	\$ 4,520,973

**Total General Fund Revenues** **\$ 8,790,776**

## **SECTION II. CAPITAL RESERVE FUND AND EXPENDITURES**

FY 22-23 Appropriations Authorized:

Transfer OUT from General Fund to Capital Reserve Fund "Canal and Channel Maintenance"	\$ 100,000
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FY 22-23 Revenues Anticipated:

Transfer IN from General Fund for "Canal and Channel Maintenance"	\$ 100,000
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### **SECTION III. CEMETERY FUND**

Appropriations Authorized:

Cemetery Maintenance and Beautification	\$ 3,140
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Revenues Anticipated:

[illegible]

## **SECTION IV. TAX RATE ESTABLISHED**

There is hereby levied a property tax of twenty-three point fifty-eight cents (\$0.2358) on each one hundred dollars (\$100) valuation of real and personal taxable property in the Town of Southern Shores, as listed for taxes as of January 1, 2022 by the Dare County Tax Department, for the purpose of raising revenue included in "Property Taxes – Current Year" and "Vehicle Taxes – Current Year" in the General Fund, being Section I. B. of this Ordinance.

The rate of tax is based on an estimated total valuation of real and personal property for the purpose of taxation of \$ 1,600,631,190 (taxable property value) with an estimated collection rate of 99.65%, and an estimated total valuation of vehicles of \$52,257,916 with an estimated collection rate of 99.96%. The estimated rate of collection is based on the fiscal year 2020-21 collection rate pursuant to NCGS §159-13(b)(6).

There is hereby levied a property tax of seven point fifteen cents (\$0.0715) on each one hundred (\$100) valuation of real and personal taxable property located in MSD 1 in the Town of Southern Shores for beach nourishment, three cents (\$0.03) on each one hundred (\$100) valuation of real and personal taxable property located in MSD 2 in the Town of Southern Shores and four cents (\$0.04) on each one hundred (\$100) valuation of real and personal taxable property located in

the Town of Southern Shores, as listed for taxes as of January 1, 2022 by the Dare County Tax Department, for the purpose of raising revenue included in "Property Taxes-Current Year" and "NCVTS" in the General Fund, being Section I.B. of this ordinance.

The tax rate is based on an estimated total valuation of real and personal property for the purpose of taxation in MSD 1 as \$272,833,010, MSD 2 as \$581,487,526 and Town Wide as \$1,600,631,190 with an estimated collection rate of 99.65%. The estimated rate of collection is based on the fiscal year 2020-21 collection rate pursuant to NCGS 159-13(b)(6).

## **SECTION V. EXPENDITURES**

All expenditures must be made in accordance with governing North Carolina General Statutes and adopted Town policies regarding purchasing and bidding. The Budget Officer is authorized to expend funds consistent with the governmental functions and amounts shown as appropriated and to execute such documents necessary for same.

Notwithstanding Town policies regarding purchasing and bidding, the Budget Officer is authorized to execute documents for the following items or services in accordance with the specific appropriations established by this Ordinance or as the budget may be amended during the fiscal year: Multi-year lease, lease-purchase, or purchase of vehicles and equipment.

## **SECTION VI. LEASE REVENUES**

The Budget Officer is hereby authorized to negotiate in the best interest of the Town and execute such documents necessary for the realization of revenues or other consideration from lease or use of any Town property with a term not to exceed three years.

## **SECTION VII. FIRE SERVICES**

An amount of \$ 314,020 is included (as shown on adopted line item budget) in the total amount appropriated in Section 1. A. for "Fire Department". This funding is for reimbursement to the Southern Shores Volunteer Fire Department, Inc. (SSVFD) for that entity's debt service costs incurred during FY 2021-22 for funding for a new fire station as described in the effective contract for fire services between the Town and the SSVFD.

## **SECTION VIII. BUDGET OFFICER LINE TRANSFER AUTHORIZATION**

The Budget Officer is authorized to re-allocate intra-departmental appropriations among the various objects of expenditures as he considers necessary for effective budget performance and is also authorized to affect inter-departmental transfers within the same Fund for effective budget performance. The Budget Officer is also authorized to affect, within the same Fund, intra-departmental and inter-departmental transfers from a Departmental contingency line

appropriation established in accordance with NCGS §159-13(b)(3), with such contingency line transfers being in accordance with NCGS §159-13(b)(3).

### **SECTION IX. BUDGET OFFICER RESTRICTIONS**

No salary increases may be made without approval of the Town Council. Inter-fund transfers not established in this budget document may only be performed by authorization of the Town Council.

### **SECTION X. UTILIZATION OF BUDGET AND BUDGET ORDINANCE**

This Ordinance and the Budget Document shall be the basis of the financial plan for operations of the Town of Southern Shores, North Carolina Municipal Government during the fiscal year 2020-21. Copies of this Budget Ordinance shall be furnished to the Clerk of the Town Council and to the Budget Officer and Finance Officer and is to be kept on file by them for their direction in the disbursement of funds.

ADOPTED this \_\_\_\_\_ day of June, 2022.

\_\_\_\_\_  
Mayor Elizabeth Morey

ATTEST:

\_\_\_\_\_  
Sheila Kane, Town Clerk

seal



GENERAL FUND SUMMARY					
	FY 19-20 Actual	FY 20-21 Actual	FY 21-22 Amended	FY 22-23 Requested	FY 22-23 Adopted
<b>Revenues:</b>					
Ad valorem taxes	3,074,049	3,241,973	4,286,228	4,269,803	
Occupancy, Sales Tax & Land Transfer Tax:	2,123,562	3,112,145	2,430,000	3,132,670	
UNRESTRICTED Intergovernmental Revenues	455,172	429,641	467,943	450,979	
RESTRICTED Intergovernmental Revenues	927,246	492,519	233,260	212,000	
Permit and Fees	136,261	185,560	168,700	172,500	
Other revenues	141,996	16,880	10,600	10,100	
<b>SubTotal:</b>	<b>6,858,286</b>	<b>7,478,718</b>	<b>7,596,731</b>	<b>8,248,052</b>	
Transfer IN from Other Funds	-	-	45,000	177,415	
Appropriated-Undesignated Fund Balance	-	-	1,719,282	365,309	
<b>Total:</b>	<b>6,858,286</b>	<b>7,478,718</b>	<b>9,361,013</b>	<b>8,790,776</b>	
<b>Expenditures:</b>					
Administration Department	867,379	985,138	1,096,285	1,211,333	
Planning & Code Enforcement Department	252,702	275,158	325,089	419,826	
Police Department	1,551,354	1,614,448	2,024,625	2,113,039	
Streets, Bridges and Canals	1,623,753	1,134,814	2,053,103	2,276,039	
Public Works Department	452,219	519,555	623,025	602,741	
Sanitation Services	719,960	787,762	854,733	879,555	
Fire Contracted Service	566,444	866,333	964,378	1,004,243	
Ocean Rescue Contracted Service	163,500	179,700	176,000	184,000	
<b>Total Operating General Fund Expenditures</b>	<b>6,197,311</b>	<b>6,362,908</b>	<b>8,117,238</b>	<b>8,690,776</b>	
<b>REVENUES OVER (UNDER) EXPENDITURES</b>	<b>660,975</b>	<b>1,115,810</b>	<b>-</b>	<b>-</b>	
Transfer OUT to Capital Reserve Fund- Canals	20,000	20,000	20,000	100,000	
Transfer OUT to Capital Reserve Fund-Beach Fund	-		1,223,775		
			<b>9,361,013</b>	<b>8,790,776</b>	
.01 = \$164,710					

GENERAL FUND						
REVENUES	FY 19-20 Actual	FY 20-21 Actual	FY 21-22 Amended	FY 22-23 Requested	FY 22-23 Adopted	
<b>AD VALOREM TAXES:</b>						
Property taxes - current year	2,936,892	3,088,813	3,122,004	3,133,958		
Property taxes - prior years	3,602	6,233	5,000	5,000		
NCVTS	99,978	113,415	97,894	102,321		
Tax penalties and interest	3,577	3,512	3,000	3,000		
Special Assessment	30,000	30,000	30,000	-		
MSD 1 Taxes	-	-	207,500	194,100		
MSD 2 Taxes	-	-	169,422	173,574		
Town Wide- Beach Nourishment	-	-	651,408	657,850		
<b>Total Ad Valorem Taxes</b>	<b>3,074,049</b>	<b>3,241,973</b>	<b>4,286,228</b>	<b>4,269,803</b>		
<b>Occupancy, Sales Tax &amp; Land Transfer Tax:</b>						
Occupancy tax	936,756	1,376,367	1,060,000	1,381,935		
Local option sales tax	940,848	1,175,685	1,045,000	1,400,000		
Land transfer tax	245,958	560,093	325,000	350,735		
<b>Total Occupancy, Sales Tax &amp; Land Transfer</b>	<b>2,123,562</b>	<b>3,112,145</b>	<b>2,430,000</b>	<b>3,132,670</b>		
<b>UNRESTRICTED INTERGOVERNMENTAL REVENUES:</b>						
Utilities franchise tax	268,208	253,837	268,663	259,579		
Video Programming Tax	62,075	61,015	62,850	60,000		
Telecommunications tax	20,603	17,464	19,500	15,000		
PEG Channel Revenue	27,307	26,717	26,000	26,000		
ABC revenues	61,794	55,568	75,700	75,000		
Beer and Wine Tax	12,907	12,776	13,000	13,000		
Solid Waste Disposal Tax	2,278	2,264	2,230	2,400		
NC DEQ Grant- Beach Nourishment						
<b>Total Unrestricted Intergovernmental Revs</b>	<b>455,172</b>	<b>429,641</b>	<b>467,943</b>	<b>450,979</b>		
<b>RESTRICTED INTERGOVERNMENTAL REVENUES:</b>						
Powell Bill	117,507	110,484	110,000	122,000		
GCC Grant (K9 Equipment)	-	-	64,000	20,000		
GHSP Grant Personnel Pay	-	-	-	41,000		
Dare County Tourist Bureau Grant	260,993	-	30,260	-		
Controlled Substance tax	32	-	-	-		
Government Access Channel Grant	9,354	5,000	5,000	5,000		
Shoreline Stabilization	24,000	24,000	24,000	24,000		
Dare County Beach Nourishment Grant	-	250,000	-	-		
FEMA Reimbursement	515,360	56,516	-	-		
Cares Act Grant	-	37,088	-	-		
NCDEQ ZEV Charging Grant	-	9,431	-	-		
<b>Total Restricted Intergovernmental Revs</b>	<b>927,246</b>	<b>492,519</b>	<b>233,260</b>	<b>212,000</b>		
<b>PERMITS AND FEES:</b>						
Building permits	116,008	162,660	145,000	150,000		
Plan review fees	11,500	6,775	10,000	8,000		

REVENUES	FY 19-20 Actual	FY 20-21 Actual	FY 21-22 Amended	FY 22-23 Requested	FY 22-23 Adopted	
CAMA fees	2,170	2,230	2,500	2,500		
Planning board fees	1,360	2,000	2,500	2,500		
Court costs and fees	973	1,395	1,200	1,000		
Parking and other fines	4,250	10,500	7,500	8,500		
<b>Total Permits and Fees</b>	<b>136,261</b>	<b>185,560</b>	<b>168,700</b>	<b>172,500</b>		
<b>Other Revenues:</b>						
Interest income	83,634	1,462	2,000	1,500		
Sale of fixed assets	18,235	300	-	-		
Rental Income	1,850	3,045	2,400	2,400		
Miscellaneous	1,663	2,791	5,000	5,000		
Body Armour Grant	1,000	1,177	1,200	1,200		
Outer Banks Community Foundation	1,000	-	-	-		
Insurance proceeds	34,614	6,655	-	-		
SERDC Grant		1,450	-	-		
<b>Total Other Revenues</b>	<b>141,996</b>	<b>16,880</b>	<b>10,600</b>	<b>10,100</b>		
<b>Total Other Revenues</b>	<b>1,660,675</b>	<b>1,124,600</b>	<b>880,503</b>	<b>845,579</b>		
<b>TOTAL REVENUE BEFORE TRANSFERS</b>						

ADMINISTRATION DEPARTMENT	FY 19-20 Actual	FY 20-21 Actual	FY 21-22 Amended	FY 22-23 Requested	FY 22-23 Adopted
Salaries	276,773	370,279	382,518	401,634	
FICA	20,896	27,123	29,264	30,725	
Retirement	38,766	55,735	62,733	68,800	
Group Health insurance	38,595	42,482	48,648	51,121	
Council Compensation	18,600	18,600	18,600	18,600	
Council Travel & Training	2,311	1,766	5,000	5,000	
Unemployment Payments	195	176	1,000	1,200	
Merit/Bonus Pay	-	-	-	63,528	
Legal services	62,680	49,991	60,000	60,000	
Audit services	17,000	19,000	20,000	20,500	
Payroll services	5,877	7,623	8,200	8,200	
Computer services	71,158	74,532	80,000	124,375	
Insurance and bonds	74,757	71,937	83,000	75,000	
Advertising	926	852	1,000	1,000	
Travel	7,431	662	15,000	15,000	
Telephone	28,633	30,638	31,500	31,500	
Utilities	19,966	23,010	25,000	25,000	
Dues/subscriptions	7,037	10,427	10,000	10,000	
Training	6,893	1,975	13,500	13,500	
Supplies	9,163	15,017	12,000	12,000	
Postage	1,818	1,361	2,000	2,000	
Equipment lease & maintenance	14,330	9,300	16,000	10,000	
Municipal Elections	5,902	-	6,600	-	
Dare County & NCVTS tax collection	48,470	51,276	70,000	75,000	
Gov't. Access Channel (PEG Channel)	27,307	26,718	26,000	26,000	
Gov't. Access Channel Membership	1,000	1,000	1,000	1,000	
Municode publishing	3,650	4,031	13,000	7,500	
Vehicle Operations	815	230	500	750	
EE Recognition & Appreciation	6,365	6,293	9,500	9,500	
Wellness Initiative	1,244	2,694	3,000	3,000	
Contracted Services	29,873	6,565	15,000	15,000	
Misc.	4,504	8,913	10,000	10,000	
Technology Update- Pitts Center	9,639	4,226	5,000	5,000	
Recording of Meetings	3,805	5,977	8,400	8,400	
Covid Expenses	-	23,672	-	-	
NCDEQ ZEV Charging Station	-	9,432	2,322	-	
Cleaning of Town Buildings	1,000	1,625	1,000	1,500	
<b>Total</b>	<b>867,379</b>	<b>985,138</b>	<b>1,096,285</b>	<b>1,211,333</b>	

<b>PLANNING &amp; CODE ENFORCEMENT</b>	<b>FY 19-20 Actual</b>	<b>FY 20-21 Actual</b>	<b>FY 21-22 Amended</b>	<b>FY 22-23 Requested</b>	<b>FY 22-23 Adopted</b>
Salaries	182,625	189,905	216,896	224,828	
FICA	13,539	15,805	16,593	17,200	
Group Health insurance	25,384	27,354	35,679	38,135	
Employee retirement	21,522	24,697	35,571	38,513	
Contracted Services	3,600	3,600	3,600	3,600	
Printing	832	249	1,000	1,000	
Advertising	1,068	2,386	1,400	1,500	
Travel	171	1,891	3,100	1,800	
Dues/subscriptions	170	111	350	850	
Training	188	1,109	2,000	1,500	
Supplies	355	1,202	1,000	1,000	
Uniforms	-	-	200	200	
Vehicle Maintenance	-	834	1,000	1,000	
Vehicle operations	452	608	1,700	2,700	
Homeowners Recovery fee	810	945	1,000	1,000	
Historic Landmarks Designation	377	200	1,000	1,000	
Flood Zone Map Mailing	1,609	-	3,000	3,000	
Medical Testing	-	262	-	-	
Misc	-	-	-	1,000	
Land Use Plan Update	-	-	-	80,000	
Town Code Update	-	4,000	-	-	
<b>Total Code Enforcement</b>	<b>252,702</b>	<b>275,158</b>	<b>325,089</b>	<b>419,826</b>	



POLICE DEPARTMENT	FY 19-20 Actual	FY 20-21 Actual	FY 21-22 Amended	FY 22-23 Requested	FY 22-23 Adopted
Salaries	831,328	887,556	991,940	1,111,070	
Holiday	27,225	31,839	25,000	35,000	
Overtime	8,909	16,898	20,000	30,000	
FICA	64,366	69,179	79,280	89,970	
Group Health insurance	115,932	120,089	139,077	148,021	
Employees retirement	127,106	146,885	175,358	210,079	
Career Development	-	-	2,900	5,500	
Computer services	8,756	2,682	12,000	-	
Advertising	1,748	1,866	1,500	1,500	
Travel	4,798	1,929	10,000	10,000	
Printing	-	-	1,500	2,000	
Dues/subscriptions	532	568	1,500	2,000	
Training	3,187	10,548	12,000	12,000	
Medical testing	706	-	1,800	1,800	
Uniforms	12,867	10,472	28,088	28,000	
Supplies	26,940	27,830	30,500	30,500	
Contracted Services	21,581	22,352	42,000	47,000	
Equipment lease & maint.	4,238	4,200	5,000	6,500	
Equipment purchase	89,162	112,036	108,088	71,600	
Vehicle maintenance & repair	20,633	23,738	28,000	28,000	
Vehicle operations	27,992	26,432	35,000	64,350	
Misc.	2,250	-	10,000	10,000	
Capital Outlay- Vehicles	127,514	17,249	173,510	108,000	
GCC Grant	-	56,516	64,000	20,000	
Special Investigation Assets	-	-	3,000	3,000	
<b>Total</b>	<b>1,527,770</b>	<b>1,590,864</b>	<b>2,001,041</b>	<b>2,075,890</b>	
Sep. Allowance Transferred to Pension Fund	23,584	23,584	23,584	37,149	
<b>Total Police</b>	<b>1,551,354</b>	<b>1,614,448</b>	<b>2,024,625</b>	<b>2,113,039</b>	

<b>Streets, Bridges, Beaches and Canals</b>	<b>FY 19-20 Actual</b>	<b>FY 20-21 Actual</b>	<b>FY 21-22 Amended</b>	<b>FY 22-23 Requested</b>	<b>FY 22-23 Adopted</b>
Street Sign Maintenance	896	11,751	7,000	7,000	
Engineering & Arborist Services	3,769	4,833	5,000	5,000	
Street Maintenance	4,371	32,330	48,167	37,200	
Brush Trimming	11,000	10,455	10,000	10,000	
Bridge Maintenance	1,044	1,118	7,125	2,000	
Beach Nourishment Permitting	11,592	-	5,844		
Beach Profile Study	38,143	-	11,724		
Financial Planning-Beach Nourishment	37,076		45,000		
Beach Nourishment Engineering	-	446,806	105,694		
Beach Surveys	2,187		-		
Beach Nourishment- Legal	-		13,850		
Beach Nourishment-Construction Monitoring	-		34,255		
Debt Payment- Beach Nourishment	-	-	554,555	1,202,939	
Juniper Trail	187		-		
Hickory Trail	-	-	4,200		
East Dogwood Bike Path	1,392		-		
South Dogwood Bike Path	682,214	1,258	-		
Hillcrest Drive	21,368	7,233	1,079,789		
Sea Oats Trail	15,734	447,588	18,898		
Dewberry Lane	10,303	95,254	-		
East Dogwood Trail	287,810	-	-		
Wood Duck Court	-	18,636	-		
Last Hunt Lane	-	20,762	-		
Ginguite Tr. Stormwater	-	-	1,800		
Waterway Maintenance and Repair	400	-	400	400	
Storm Debris Cleanup	-	5,940	7,500	7,500	
Hurricane Dorian Recovery	494,267		-		
Bulkhead Maintenance and Repair	-		-		
Infrastructure Project	-	30,850	7,650	1,000,000	
Misc.	-		10,000		
FEMA BRIC Grant Expense	-	-	10,052		
DCTB TIG Grant Expense	-	-	35,600		
Pavement Plan Year 1	-	-	25,000		
Contracted Service	-	-	4,000	4,000	
<b>Total</b>	<b>1,623,753</b>	<b>1,134,814</b>	<b>2,053,103</b>	<b>2,276,039</b>	

[illegible]

[illegible]

[illegible]



[illegible]



	FY 22-23 Recommended		
<b>Capital Reserve Fund</b>			
<b>Revenues</b>			
Tr IN from GF-Canals	100,000		
Tr IN from GF-Beach Fund			
<b>Total</b>	<b>100,000</b>		
<b>Reserves</b>			
Canal Maintenance	100,000		
Beach Nourishment			
<b>Total</b>	<b>100,000</b>		
Balance as of 3/31/22	1,227,505		
Reserved for Canals	(138,000)		
Reserved for Beach Nourishment	(955,000)		
Balance for Other Capital Projects	<b>134,505</b>		
ESTIMATED Balance transfer in From GF for BN	903,567		

TOWN OF SOUTHERN SHORES FEE SCHEDULE

ORDINANCE #2022-06-02

\* All fees shall include, whenever applicable, the reasonable cost of any expert advice obtained by the Town or other direct expenses incurred by the Town during the review of the application. All fees must be paid in full prior to any further reviews by the Town or prior to issuance of any permits sought, whichever comes first. Submitted fees shall not be refunded.

Item	Fee
<b>Miscellaneous:</b>	
Returned Checks/charge back (NSF)	Current Bank Fee
Credit Card Convenience Fee	
Credit card present	2.65%
Credit card not present	3.5%
Cemetery Lot Purchase:	
TOSS Property Owners	\$500.00
Non-property Owners	\$2,000.00
Cost of Copies	\$0.25 B/W \$0.30 Color
Annual Lease Fee –Town Canal-Street Right of Way	\$5.00
Beach Parking Tag or Sticker-Replacement	\$75.00
Planning	
<b>Development Review:</b>	
Zoning Map Amendment	\$300.00
Zoning Text Amendment	\$200.00
Zoning Compliance Letter	
a. Residential	\$35.00
b. Commercial	\$75.00
Application to Board of Adjustment	\$350.00
(includes cost of certified mailings and public notices)	
Conditional Use Permit	\$300.00
(includes cost of certified mailings and public notices)	
Filing fee for site plan for dwelling or lodging unit, other than single-family detached homes, per unit.	\$50.00
Filing fee for commercial structures and improvements	\$0.10/SF
<b>Wireless Applications:</b>	
a. Application for new tower	\$200.00
b. Tower annual renewal	\$100.00
c. New collocation	\$100.00
d. Collocation annual renewal	\$50.00
<b>Subdivision Plat Review:</b>	
a. Exempt	\$50.00/lot
b. Subdivision	\$100.00/lot
Building Inspections	
<b>Plan Review:</b>	
Lot Disturbance and Stormwater Management Permit	<del>\$100.00</del> <del>\$150.00</del>
Zoning Permit	<del>\$50.00</del> <del>\$75.00</del>
Single family new construction	\$150.00
Single family addition or renovation minimum	\$100.00
<b>New Building Permits for Structures/Additions/Reconstruction:</b>	
Heated/living areas - Single Family	\$0.60/SF
All Others	\$0.75/SF
Non heating areas; i.e., deck, porch, garages, etc. - Single Family	\$0.30/SF
All Others	\$0.35/SF
Remodeling and alterations to existing structures (no additional square footage, \$10.00 Per \$1,000 of Construction Cost)	\$10.00
Swimming Pools and Tennis Courts (flat fee)	<del>\$125.00</del> <del>\$250.00</del>
Demolition	<del>\$100.00</del> <del>\$150.00</del>
<b>Generator</b>	<del>\$150.00</del>
Sign	\$100.00
Bulkhead	<del>\$100.00</del> <del>\$150.00</del>
<b>Trade (HVAC, Mechanical, Plumbing, Gas, Electrical)</b>	<del>\$150.00</del>
Re-inspection charge	\$100.00
Work Proceeding Without Necessary Inspections	1/2 Permit Fee
Work Proceeding Without Necessary Permit	Double Permit Fee
<b>House Moving:</b>	
Out of Southern Shores	\$100.00

Within Southern Shores	\$250.00
Into Southern Shores from elsewhere	\$300.00
<b>Miscellaneous:</b>	
Contractors Licensing Board Fee (Homeowner's Recovery Fund)	\$10.00
CAMA Permit: minor development permit if the project is within the Ocean Hazard or Estuarine AECs and does not qualify for an Exemption	\$100.00
Construction & Demolition Debris Disposal Permit	\$50.00
<b>NOTWITHSTANDING THE ABOVE, THE MINIMUM FEE SHALL BE:</b>	<b>\$100.00</b>

Attest:

Sheila Kane, Town Clerk

Elizabeth Morey, Mayor

Adopted: 3/4/2003  
Amended 1/6/04, 2/3/04, 6/27/06, 1/23/07, 2/26/08, 5/27/08, 3/2/2010, 11/3/10, 9/20/2011, 6/2/2015, 6/7/2016, 11/09/2021 , 06/07/2022





## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** June 7, 2022

**ITEM TITLE:** Public Hearing- ZTA-22-05

**ITEM SUMMARY:**

The applicant is proposing to amend Section 36-202(d)(6) in an effort to allow a maximum lot coverage of 35% for lots that are less than 20,000 square feet provided that the total lot coverage does not exceed 6,000 square feet. In 2020, a Certificate of Occupancy/Compliance was issued for a new single-family dwelling on property owned by the applicant located at 9 Tenth Ave. In 2021, Town Staff observed that landscaping work had taken place at 9 Tenth Ave. that included additional concrete around the driveway, a concrete walkway, and a gravel walkway with stepping stones. After review of the as-built survey of the property, it was determined that the additional coverage exceeded the Town's maximum allowable 30% lot coverage requirement, as established in Section 36-202(d)(6). Since that time, Town Staff has discussed potential solutions to the lot coverage issue with the applicant and a local engineering firm. If approved, a maximum allowable lot coverage of 35% would be permitted in the Town's RS-1 zoning district for lots that are less than 20,000 square feet provided that the total lot coverage does not exceed 6,000 square feet.

**STAFF RECOMMENDATION:**

During your consideration, questions and discussion should mainly focus on the ZTA and not on a specific property. The proposed amendments would apply to the entire RS-1 zoning district. There are about 847 residential lots that are less than 20,000 sq. ft. in the Town (about 28% of the total number of residential lots). The lots are considered legally nonconforming with respect to lot size and they can be developed provided that all other requirements can be met, including lot coverage.

Historically, the Town's 30% lot coverage requirement has applied to all lots in the RS-1 zoning district, regardless of the lot size, since adoption of the Town's zoning ordinance. Town Staff has determined that the proposed amendments are inconsistent with the Town's currently adopted Land Use Plan and Town Staff recommends denial of the application. The Town Planning Board unanimously (5-0) recommended disapproval of the application at the May 19, 2022 Planning Board meeting and determined that the application was inconsistent with the Town's currently adopted Land Use Plan

**REQUESTED ACTION:**

Motion to deny ZTA-22-05.



# Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

Item 6.

## PLANNING BOARD GENERAL APPLICATION FORM TOWN OF SOUTHERN SHORES, NC 27949

Date: 4 / 1 / 22 Filing Fee: \$200 Receipt No. 082722 Application No. 27A-22-05

**NOTE:** The Planning Board will follow the specific provisions of the Zoning Ordinance Chapter 36. Article X Administration and Enforcement, Section 36-299.

Please check the applicable Chapter/Article:

- ☐ Chapter 30. Subdivisions-Town Code
- ☐ Chapter 36. Article VII. Schedule of District Regulations. Section 36-207 C-General Commercial District
- ☐ Chapter 36. Article IX. Planned Unit Development (PUD)
- ☐ Chapter 36. Article X. Administration and Enforcement, Section 36-299 (b) Application for Building Permits and Site Plan Review other than one and two family dwelling units \*
- ☐ Chapter 36. Article X. Section 36-300-Application for Permit for Conditional Use
- ☐ Chapter 36. Article X. Section 36-303 Fees
- ☐ Chapter 36. Article X. Section 36-304-Vested Rights
- ☒ Chapter 36. Article XIV. Changes and Amendments

**Certification and Standing:** As applicant of standing for project to be reviewed I certify that the information on this application is complete and accurate.

### Applicant

Name Stacia and Marc LeBlanc

Address: 9 10th Avenue, Southern Shores, 27949

Phone 252-715-0424 Email sleblanclaw@gmail.com

### Applicant's Representative (if any)

Name NA

Agent, Contractor, Other (Circle one)

Address \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

**Property Involved:** ☒ Southern Shores ☐ Martin's Point (Commercial only)

Address: 9 10th Avenue Zoning district RS-1

Sea Crest Village  
Section \_\_\_\_\_ Block 55 Lot 7 Lot size (sq.ft.) 17,365

**Request:** ☐ Site Plan Review ☐ Final Site Plan Review ☐ Conditional Use ☐ Permitted Use  
☐ PUD (Planned Unit Development) ☐ Subdivision Ordinance ☐ Vested Right ☐ Variance

**Change To:** ☐ Zoning Map ☒ Zoning Ordinance

Stacia LeBlanc  
Signature

April 1, 2022  
Date

\* Attach supporting documentation.

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF  
SOUTHERN SHORES, NORTH CAROLINA

ZTA-22-##

**ARTICLE I. Purpose(s) and Authority.**

**WHEREAS**, pursuant to N.C.G.S. § 160A-381, the Town of Southern Shores (the "Town") may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures, and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et seq, the Town has adopted a comprehensive zoning ordinance (the "Town's Zoning Ordinance") and has codified the same as Chapter 36 of the Town's Code of Ordinances (the "Town Code"); and

**WHEREAS**, pursuant to N.C.G.S. § 160A-174 the Town may also enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town; and

**WHEREAS**, the Town adopted Sec. 36-202(d)(6) establishing that the minimum residential lot size is 20,000 square feet, but has not adopted provisions establishing lot coverage for nonconforming lots less than 20,000 square feet;

**WHEREAS**, the Town further finds that the amendment is consistent with the adopted Town's comprehensive land use plan;

**WHEREAS**, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town's Zoning Ordinance and Town Code of Ordinances as stated below.

**ARTICLE II. Construction.**

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipses ("...") shall remain as the currently exist within the Town Code.

**ARTICLE III. Amendment of Zoning Ordinance.**

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern Shores, North Carolina, That section 36-202 RS-1 single family residential district of the Code of Ordinances, Town of Southern Shores, North Carolina, is hereby amended to add Subsection f. to Section 36-202(d)(6) Maximum allowable lot coverage, which reads as follows:

**f. For lots less than 20,000 square feet as set forth in Section 36-202(d)(1), the maximum allowable lot coverage is 35 percent, provided total lot coverage does not exceed 6,000 square feet.**

**ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.**

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons and any additional reasons supporting the Town's adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

**ARTICLE V. Severability.**

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

**ARTICLE VI. Effective Date.**

This ordinance amendment shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Elizabeth Morey, Mayor

ATTEST:

\_\_\_\_\_  
Town clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date adopted:

\_\_\_\_\_  
Motion to adopt by Councilmember:

\_\_\_\_\_  
Motion seconded by Councilmember:

Vote: \_\_\_\_AYES \_\_\_\_NAYS



## STATEMENT IN SUPPORT OF PROPOSED ZONING TEXT AMENDMENT

April 1, 2022

We are recent full-time residents of Southern Shores. In 2021, we built our home at 9 10<sup>th</sup> Avenue, in the RS-1 district. The lot was created decades ago, long before our Town's incorporation. The relevant Code sections state that RS-1 residential single-family lots must be a minimum size of 20,000 square feet. Sec. 36-202(d)(1). References to the Town Code are taken from Chapter 36 of the Code of [Zoning] Ordinances, as found in the Municode Library.<sup>1</sup> For your convenience, we have attached the Code provisions for RS-1 Residential lots (36-202). For lots meeting the size requirement, the Code establishes a 30% lot coverage limit. Sec. 36-202(d)(6). The Code does not, however, definitively establish lot coverage percentages for lots that are less than the required 20,000 sq. ft.<sup>2</sup> We propose a Zoning Text Amendment (ZTA) to provide a limited, additional allowance of 35% for lots not meeting the 20,000 sq. ft. requirement. This change has very minimal impact on development in Southern Shores, provides clarity in the Code provisions, and is consistent with other local zoning codes.

In 2015, the Town of Southern Shores created the "Town Code Update Project." The Town published a website for homeowners at <https://www.southernshores-nc.gov/town-code-update-project/>. Although the Town Code had been updated in 2009, by 2015 changes in state and federal laws and regulations suggested a rewrite/Update was appropriate.

The Town retained CodeWright Planners LLC as a consultant for the Update. On October 20, 2015 Town and CodeWright presented as PowerPoint referenced to, and linked as, [Town Code Update Kickoff Presentation 10.20.15](#). In this, the Town states the Update's objectives as:

- **Revise the Town Code**
- **UDO [unified development ordinance] inside the Town Code**
- **Clear, predictable regulations**
- **Increased understanding**

This PowerPoint states, verbatim, in slides titled "Rationale" that:

- There are several aspects of the town code that are obsolete or confusing, and should be removed or clarified

The auxiliary police force provisions, the fee structure for the cemetery, relocating town policy to a separate policy document, CAMA permit provisions, **lot coverage requirements** ...

- The town is built out, and the lots that remain are the most difficult to develop. Much of the housing stock is older and there is an increased need for remodeling

<sup>1</sup> The Town of Southern Shores Code of Ordinances is found at [https://www.municode.com/library/nc/southern\\_shores/code\\_of\\_ordinances/toc](https://www.municode.com/library/nc/southern_shores/code_of_ordinances/toc)

<sup>2</sup> The only section of the Code (36-132) addressing nonconforming lots does not address lot coverage.

and redevelopment. **Infill and redevelopment are difficult and complicated, and requires additional regulatory flexibility.**

The Code defines ***Lot coverage***

means that portion of the lot area, expressed as a percentage, that is occupied and obstructed by any **structure above the ground** including, but not limited to, building, decks, pools, parking areas, accessways, private sidewalks, driveways, and roadways, and any accessory use or **structure requiring location on or above the ground**. Sec. 36-57. - Definition of specific terms and words.

At 17,365 square feet, our home was built on a lot not meeting the minimum 20,000 square feet the Code requires. As our home neared completion, we saw that the cement around the edge of the pool was very narrow at 2 feet. There were no walkways. We found our car bottomed out in gaps left between the front drive and the 10-by-10 turnaround required by the Code. Disappointed about the lack of a pool patio, the builder advised that we were nearing the permissible lot coverage and he could not expand the solid concrete around the pool. To solve these problems, we engaged a contractor to fill the front driveway gaps and at his suggestion add a short sidewalk to the front door, build a gravel walkway to the back yard with stepping stones placed on top, lay small pavers around the pool, add sod, mulch, plantings, rock, and irrigation.

Later, we received a courtesy call from the Deputy Town Manager/Planning Director Wes Haskett. Mr. Haskett informed us that the addition to our driveway, front walk, side walkway and pool surround contravened the *as-built drawing* submitted to the Town. Specifically, he advised that the following are impermissible: (1) the addition of concrete to fill driveway gaps and the sidewalk to the front steps; (2) the stepping stones resting on a gravel walkway; and (3) the “concrete” we added to the back yard (to which we replied we didn’t add concrete). Before the call, we believed the front addition of concrete to be of minimal impact to our lot coverage. We further assumed the stepping stones on gravel, with open space on all sides, was still considered a permeable gravel walkway. In fact, gravel walkways are the only exception to lot coverage under the Code<sup>3</sup>. We view the pool pavers as permeable compared to solid concrete because there is small gravel between them. We used a lot of gravel around our home because it manages storm water runoff far better than sand or mulch. We thought we had made acceptable choices in our landscaping.<sup>4</sup>

We submit that our home is precisely the type of property the Town Code Update Project explicitly targets. On December 4, 2015, the Town published FAQs about the Update.

<sup>3</sup> 36-202(d)(6)(c).

<sup>4</sup> We did some searches online to try to understand what is considered as “built upon” or contributions to “lot coverage”. North Carolina General Statute 143-214.7(b2) defines “built-upon area” as impervious surfaces. Further “built-upon area” does not include, among other things, slatted decks, stone, pools, and landscaping. Gravel and rock are far more permeable than sand.



<https://www.southernshores-nc.gov/wp-content/uploads/2015/11/Updated-Southern-Shores-FAQ-12-4-15.pdf>. The FAQs – like the PowerPoint- speak directly to our situation, and the situation of similarly situated homeowners, as follows:

The Town Code will be also be updated to reflect the Town's current development pattern: most of the Town is built out, and the majority of new development will likely be infill or redevelopment. Infill and redevelopment **require differently tailored development standards that include additional flexibility and options.**

Respectfully, the current lot coverage requirements are not tailored to smaller lots, nor do they provide much flexibility. Under the current state of the Code, grass or sand do not count against lot coverage. Nor do "gravel walkways". Sec. 36-202(d)(6)(c). There is NOT an exception for gravel driveways notwithstanding that such driveways benefit storm water management just as gravel walkways do. Small wood stands for HVAC units and pool equipment count against lot coverage, as do wood steps into houses, even though all usually consist of slatted boards. Sec. 36-202(6)(d) and (e). "Slatted" decks have a reduced contribution to lot coverage, if and only if, connected to the house, and a lot disturbance and stormwater management plans and permit are approved. Stepping stones on grass or gravel also count against lot coverage. Swimming pools count against lot coverage even though they retain storm water.<sup>5</sup>

After talking to Mr. Haskett, we sought advice from engineers and surveyors. They suggested using permeable materials, widely used in other jurisdictions. We then applied to the Dare County North Carolina Community Conservation Assistance Program which provides grants to property owners to remove impermeable materials and replace them with permeable materials. Although the Code is silent, we now understand from Mr. Hackett that permeable artificial turf and/or permeable paver and concrete products, all count against lot coverage. The Town Code does not allow homeowners to use such materials to reduce lot coverage. Commercial developers, however, can use such products; and are encouraged to do so in order to achieve lot coverage that exceeds the current Code limit.<sup>6</sup>

We propose the following Zoning Text Amendment (ZTA) to Code provision 36-202(d)(6) to add subsection f.

<sup>5</sup> See footnote 2.

<sup>6</sup> For example, the planned Marketplace redevelopment is projected to have 67% lot coverage, not the standard 60%, premised in part on the use of permeable products. The proposed parking lot modifications include the use of permeable pavers in order to be eligible for a maximum lot coverage of 67% instead of 60%. Also see STAFF REPORT To Southern Shores Town Council, September 7, 2021, Case: SPA-21-01, Prepared By: Wes Haskett, Deputy Town Manager/Planning Director.



**f. For lots less than 20,000 square feet as set forth in Section 36-202(d)(1), the maximum allowable lot coverage is 35 percent, provided total lot coverage does not exceed 6,000 square feet.**

In essence, nonconforming RS-1 lots of less than 20,000 sq. ft. would have an additional 5% lot coverage. The proposed ZTA caps total lot coverage at 6,000 square feet even if this – mathematically – is less than 35%. This means that any lot less than 20,000 sq. ft. would not have more actual lot coverage than a property equal to or greater than 20,000 sq. ft. (i.e., 30% of 20,000 sq. ft. is 6,000 sq. ft.).<sup>7</sup> It therefore maintains the current Code limit for low density residential lots. Additionally, no current Code provision contradicts the proposed ZTA. The total square feet of lot coverage is limited to 6,000, so that it cannot exceed the Code's current limit for conforming lots (20,000 x 30% = 6,000). This is a relatively "easy fix."

The proposed ZTA meets two goals of the TOWN CODE UPDATE PROJECT. It would make the Code more "clear and predictable" and result in "increased understanding" of legal requirements. We also believe it is consistent with the Update Rationale cited at the beginning, "There are several aspects of the town code that are obsolete or confusing, and should be removed or clarified."

Given the small, finite number of affected properties, the proposed ZTA would not appreciably increase the density of development. The following facts attest to the minimal impact of our proposed ZTA:

- 73% of **Southern Shores** properties are residential. A large majority equal or exceed, 20,000 square feet and are zoned "Single Family Residential." See CAMA Land Use Plan Update July 18, 2012 at pp. 36. <https://www.southernshores-nc.gov/wp-content/uploads/2012/07/8-30-12CertifiedAdoptedLandUsePlan.pdf>.
- A very small number of lots in **Southern Shores** are less than 20,000 sq. ft. and most of those are already developed. See CAMA Plan, above pp. 11 and 37.
- Approximately two-thirds of **Southern Shores** residences are owner-occupied. Only one-third are seasonal rentals. See CAMA Plan, above, at p. 36. **Our home is owner-occupied.**
- The Town Code forecloses the creation of new lots less than 20,000 square feet. Sec. 36-132. - Regulation of structures and uses nonconforming.
- In January 2007, there were an estimated 490 vacant lots in the Town. It was expected that most remaining vacant lots would be built out by 2020. See CAMA Plan, above at pp.15 and 37. As of recent date, Realtor.com shows about 9

<sup>7</sup> For example, a lot of 18,000 square feet with 35% lot coverage would have 6,300 square feet to work within. The cap of 6,000 prevents this.



vacant lots for sale in Southern Shores and only 2 appear to be less than 20,000 sq ft.<sup>8</sup>

Anecdotally, nonconforming lots have been purchased but then sold, rather than built out, because of the very restrictive lot coverage provisions. Current residents with smaller lots who wish to make improvements to their homes will gain some flexibility to do so. The additional 5% may be just enough to allow a swimming pool<sup>9</sup> and therefore make the nonconforming lots more competitive. Indeed, the Town Code Update Project expressly recognizes this. The FAQs cited above state:

**Some stakeholders have indicated that the interaction between the current residential building heights, limitations on fill, and elevation above base flood requirements combine to make development on the Town's remaining vacant lots difficult. It has been suggested that the Town explore ways to incorporate more flexibility into the Town Code to allow owners of vacant lots which are difficult to build on to realize their investment goals while also protecting the established community character. This issue may be considered since development of vacant lands and redevelopment are the only means by which residents and landowners will be able to meet their future housing needs.**

For lots less than 20,000 square feet, it is a challenge to “meet investment goals” such as pools, patios, decks, hot tubs, and adequate parking while meeting the 30% restriction imposed upon larger lots. Based on informal conversations, local builders struggle to provide the features that Southern Shore residents (and investors) want in their homes given the Code’s coverage requirements for nonconforming lots. Note that the Code offers additional flexibility for properties outside the RS-1 zone. See attached Table.

Our proposal is informed by provisions found in nearby jurisdictions that permit a modest increase in lot coverage percentages for lots that are less than the preferred standard square footage. For example:

- **Currituck County**, for Corolla, allows 35% lot coverage for lots between 10,000 and 19,000 square feet and 45% for lots less than 10,000 square feet. Subsec. 1.8.6: Approved Planned Unit Development District Overlay and Sketch Plan contains a table entitled TABLE 1.8.6.A: BULK AND DIMENSIONAL STANDARDS
- **Currituck**, for its mainland single-family residential district, likewise permits 35% for lots of 19,000 square feet or less. SEC. 3.4: RESIDENTIAL BASE ZONING

<sup>8</sup> [https://www.realtor.com/realestateandhomes-search/Southern-Shores\\_NC/type-land](https://www.realtor.com/realestateandhomes-search/Southern-Shores_NC/type-land)

<sup>9</sup> As mentioned in footnote 2, swimming pools are excluded from “built upon” area. Realtors will also tell you that if owners are renting their lots, a swimming pool is a “must have” amenity.

**DISTRICTS, Subsection 3.4.2: Single-Family Residential-Mainland (SFM) District.**

- The **Town of Duck** code provisions on NON-CONFORMING LOTS OF RECORD (Sec. 156.071) provide for increased lot coverage for smaller lots. For lots with 10,000 square feet or less, lot coverage may be 50%. Sec. 156.071 (B)(1)(d). For lots with 10,001 to 14,999 square feet, lot coverage may be up to 40%. Sec. 156.071 (B)(2)(d).
- The **Dare County** Code, for unincorporated areas, has similar provisions differentiating lot coverage depending on square footage of lots. See, e.g., Sec. 22-47 Nonconforming Lots.

Owners of nonconforming lots, whether full time residents or second home owners (whether renting or not) need a modest allowance for customary home improvements such as pools, hot tubs, or patios to fully enjoy our lovely beachside community. Our proposed ZTA is consistent with the Town's stated goals, has limited impact on development, and will not adversely affect our community.

Respectfully submitted,

Stacia and Marc Le Blanc  
9 10<sup>th</sup> Avenue  
Southern Shores, NC 27949

**Town of Southern Shores**  
**Table of Examples of More Flexible Zoning/Building Codes Provisions**

*This list is not exhaustive*

<b>Southern Shores Town Code Section</b>	<b>Summary of Provision</b>	<b>Zoning Area</b>
36-207 (b) (4)	40% lot coverage for multi-family dwellings	C
36-207 (c)(7)d	Gravel/crush and run for equipment parking	C
36-207 (d)(5)	Max allowable commercial lot coverage 60%	C
36-207 (d)(5)a	Commercial lots allowed "use of permeable pavement"	C
36-207(d)(5)b	Group Developments which incorporate "permeable pavement" may have lot coverage up to 67%	C
36-206 (d)(6)b	85% lot coverage for "town-owned facilities"	Government and institutional district
36-205 (d)(6)c	Maximum allowable lot coverage for schools is 40%	R-1 low-density residential district <sup>1</sup>
36-205 (d)(6)b	85% lot coverage for "town-owned facilities" found in the low-density residential district	R-1 low-density residential district
36-204 (c)(3)	For "Group development residential" single-family may have a lot size of 3000 sq ft. Lot widths, front yard, side yard, rear yard are 0 ft; AND maximum allowable lot coverage is 100%	RS-10 residential district

<sup>1</sup> This district is concentrated around the Duck Village Country Club. Adjacent to this larger area, there is R-1 designation for a smaller area behind the Firehouse on Dogwood Trail and All Saints Church. In addition, a small area between NC 12 and Ocean Blvd carries this designation.

36-203 (d)(1)c	For multifamily dwellings, min. lot size of 7,500 sq. ft. for the first dwelling unit, and 5,151 sq. ft. for each additional dwelling unit.	RS-8 multifamily residential district
36-163(3)(g)2.	Loading spaces may use porous paving as approved by the town engineer or an open-face paving block over sand and filter-cloth base, provided the open-face paving block is equivalent to turfstone with regards to compressive strength, density, absorption, and durability	Code Sec. 163 Off-street parking requirements. This section appears to apply in all zoning areas, to extent applicable.

### Sec. 36-202. RS-1 single-family residential district.

- (a) *Intent.* The RS-1 district is established to provide for the low-density development of single-family detached dwellings in an environment which preserves sand dunes, coastal forests, wetlands, and other unique natural features of the coastal area. The district is intended to promote stable, permanent neighborhoods characterized by low vehicular traffic flows, abundant open space, and low impact of development on the natural environment and adjacent land uses. In order to meet this intent, the density of population in the district is managed by establishment of minimum lot sizes, building setback and height limits, parking regulations and maximum occupancy limits for single-family residences used as vacation cottages.
- (b) *Permitted uses.* The following uses shall be permitted by right:
- (1) Detached single-family dwelling and vacation cottages provided that such residential structure shall not be: (i) advertised to accommodate, designed for, constructed for or actually occupied by more than 14 overnight occupants when used as a vacation cottage; or (ii) have a maximum septic capacity sufficient to serve more than 14 overnight occupants.
  - (2) Customary accessory buildings and structures including, but not limited to, swimming pools, tennis courts, and garages, provided no dwelling unit is located in the accessory structure. Accessory beach access walks, ramps, and steps shall not exceed four feet in width. Accessory ocean dune platforms shall not exceed 200 square feet.
  - (3) Home occupations and home based businesses as regulated in article VIII of this chapter.
  - (4) Town-owned or leased facilities.
  - (5) Piers and docks, only when accessory to a building for which a building permit has been obtained.
    - a. Piers and docks must be permitted by all applicable local, state, and federal agencies having jurisdiction.
    - b. The activity associated with the pier or dock must be permitted by the zoning district where the pier or dock is anchored.
    - c. No such permitted dock or pier shall extend into adjacent waters more than 75 feet from an estuarine bulkhead, mean high waterline, or a line connecting the outermost limits of the coastal wetlands on either side of the proposed structure, whichever is nearest the channel.
    - d. Only one pier or dock is permitted per building site.
  - (6) Estuarine bulkheads must be permitted by all applicable local, state, and federal agencies having jurisdiction.
  - (7) Community beach access including ocean dune platforms, and associated seating areas, walks, ramps and stairs. Such community beach access may be up to six feet in width and must be permitted by all applicable local, state, and federal agencies having jurisdiction.
  - (8) Collocations and eligible facilities requests in compliance with section 36-175(c).
- (c) *Conditional uses permitted.* The following uses are permitted, subject to the requirements of this district and such additional regulations and requirements as may be imposed by the town council, as provided in article X of this chapter:
- (1) Community recreation facilities, including boat launching areas, tennis courts, community centers, libraries, picnic areas, bathing beaches, and concessions integral thereto, provided that there is no open commercial activity, and no sign other than a directional sign is allowed.
  - (2) Fire stations.



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** June 7, 2022

**ITEM TITLE:** Public Hearing- ZTA-22-06

**ITEM SUMMARY:**

The applicant is proposing a Zoning Text Amendment (ZTA) to amend Section 36-207(c) to allow the group development of commercial and residential buildings as a Conditional Use in the C, General Commercial zoning district. The use would be permitted through the issuance of a Conditional Use Permit (Special Use Permit per 160D Statutes). Section 36-207 currently allows the group development of commercial buildings only (the Marketplace and Southern Shores Crossing). Section 36-207 also currently allows residential uses including detached single-family dwellings, two-family (duplexes) dwellings, multifamily dwellings, and accessory buildings, but such uses would be limited to only one principal building and its customary accessory building on any lot. If approved, the ZTA would allow group developments consisting of multiple principal commercial and residential buildings on a single lot subject to the following requirements:

- a. Minimum size of any building shall be 2,500 square feet.
- b. All buildings constructed within 35 feet of another building within the development are to be connected by a breezeway or covered walkway.
- c. Lot shall be serviced by an existing community wastewater treatment facility permitted by NC DEQ DWR.
- d. Residential density shall be limited to RS-8 District allowances as established within Sec. 36-203(a).
- e. No more than 40% lot coverage of the net parcel area can be associated with building footprints containing residential uses and the required parking for residential uses.

With respect to lot coverage, two calculations would be required in order to demonstrate compliance (if the ZTA and a site plan are approved). One lot coverage calculation would need to show that the total lot coverage for the development does not exceed 60% of the total lot area, or 67% if permeable pavement in excess of 5 percent of the total lot coverage is provided. The other lot coverage calculation would need to show that the lot coverage for residential building footprints and residential parking spaces does not exceed 40% of the net parcel area. Net parcel area is defined as the total area to be developed minus any area covered by waterways, marshes or wetlands.



The following properties could potentially meet the proposed requirements for group developments consisting of commercial and residential buildings:

- 5391 N. Virginia Dare Trl. (Stone property): 7.9 acres
- 5500 N. Croatan Hwy. (Marketplace): 18.1 acres
- 5355 N. Croatan Hwy. (Southern Shores Realty Maintenance): 4.1 acres
- 1 Ocean Blvd. (Southern Shores Crossing)
- 6195 N. Croatan Hwy. (Ginguite, LLC): 5.2 acres

#### **STAFF RECOMMENDATION:**

During your consideration, questions and discussion should mainly focus on the ZTA and not on a potential site plan for the proposed use. Policy 2 of the Town's Land Use Plan establishes the commercial district as a small district for convenience shopping and services. The Land Use Plan also establishes that incompatible uses in the commercial area are limited to "residential (low density)", educational, and conservation activities. Since commercial and residential group developments will most likely consist of high density residential development mixed with commercial development, Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan.

Town Staff and Chairperson Ward spent a considerable amount of time reviewing and discussing the application. As a result, Chairperson Ward suggested additional requirements to be added to the proposed language that clarify the requirements for "mixed use group developments" by showing them in one section of the Zoning Ordinance. Another additional requirement establishes a 50% lot coverage requirement based on the net parcel area, or 55% if permeable pavement is used in excess of 5 percent of the total lot coverage. The Town Planning Board determined that the application is consistent with the Town's currently adopted Land Use Plan and recommended denial (4-1) of the application as presented. However, it recommended approval of the ZTA with Chairperson Ward's additional requirements and a minimum 25% lot coverage requirement for residential building footprints and parking spaces.

The Board's recommended requirements are shown in PB-ZTA-22-06. Town Staff recommends approval of the application with the Planning Board's recommended requirements. Going forward, Council has the following options:

1. Approve the ZTA as presented.
2. Deny the ZTA as presented.
3. Table consideration of the ZTA.
4. Approve the ZTA with the Planning Board's recommended requirements.

5. Amend the ZTA (which may require another Planning Board review).
6. Send the ZTA back to the Planning Board for further discussion.

**REQUESTED ACTION:**

Motion to approve ZTA-22-06 with the Planning Board's recommended requirements.



# Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

Item 7.

## PLANNING BOARD GENERAL APPLICATION FORM TOWN OF SOUTHERN SHORES, NC 27949

Date: 4/19/2022

Filing Fee: \$200

Receipt No. 082157 Application No. ZTA-22-06

**NOTE:** The Planning Board will follow the specific provisions of the Zoning Ordinance Chapter 36. Article X Administration and Enforcement, Section 36-299.

Please check the applicable Chapter/Article:

- ☐ Chapter 30. Subdivisions-Town Code
- ☐ Chapter 36. Article VII. Schedule of District Regulations. Section 36-207 C-General Commercial District
- ☐ Chapter 36. Article IX. Planned Unit Development (PUD)
- ☐ Chapter 36. Article X. Administration and Enforcement, Section 36-299 (b) Application for Building Permits and Site Plan Review other than one and two family dwelling units \*
- ☐ Chapter 36. Article X. Section 36-300-Application for Permit for Conditional Use
- ☐ Chapter 36. Article X. Section 36-303 Fees
- ☐ Chapter 36. Article X. Section 36-304-Vested Rights
- ☒ Chapter 36. Article XIV. Changes and Amendments

**Certification and Standing:** As applicant of standing for project to be reviewed I certify that the information on this application is complete and accurate.

### Applicant

Name Ginguite, LLC, Attn: Sumit Gupta

Address: P.O. Box 90

Kill Devil Hills, NC 27948

Phone 252-441-9003 Email sgupta@icrsaga.com

### Applicant's Representative (if any)

Name Michael W. Strader, Jr., PE, Quible & Associates, P.C.

Agent, Contractor, Other (Circle one)

Address P.O. Drawer 870

Kitty Hawk, NC 27949

Phone 252-491-8147 Email mstrader@quible.com

**Property Involved:** ☒ Southern Shores ☐ Martin's Point (Commercial only)

Address: 6195 N. Croatan Hwy Zoning district C

Section        Block        Lot        Lot size (sq.ft.) 226,269.21

**Request:** ☐ Site Plan Review ☐ Final Site Plan Review ☐ Conditional Use ☐ Permitted Use  
☐ PUD (Planned Unit Development) ☐ Subdivision Ordinance ☐ Vested Right ☐ Variance

**Change To:** ☐ Zoning Map ☒ Zoning Ordinance

DocuSigned by:

Sumit Gupta

Signature 750C1099FC3B41B...

4/19/2022

Date

\* Attach supporting documentation.



## Town of Southern Shores

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ZTA-22-06

4-28-22

Ordinance 2022-XX-XX

### AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

#### ARTICLE I. Purpose(s) and Authority.

**WHEREAS**, pursuant to N.C.G.S. § 160D-701, the Town of Southern Shores (the "Town") may enact and amend ordinances regulating the zoning and development of land within its jurisdiction. Pursuant to this authority and the additional authority granted by N.C.G.S. § 160D-702, the Town has adopted a comprehensive zoning ordinance (the "Town's Zoning Ordinance") and has codified the same as Chapter 36 of the Town's Code of Ordinances (the "Town Code"); and

**WHEREAS**, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, and general welfare for the Town to amend the Town's Zoning Ordinance as stated below.

#### ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipses ("...") shall remain as they currently exist within the Town Code.

#### ARTICLE III. Amendment of Zoning Ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Southern Shores, North Carolina, that the Town Code shall be amended as follows:

**PART I.** That **Sec. 36-207. C general commercial district**. Be amended as follows:

**Sec. 36-207. C general commercial district.**

...

(c) *Conditional uses*. The following uses shall be permitted as a conditional use, subject to the requirements of this district; shall be subject to conditions and modifications

relating to impacts on adjacent properties, transportation and transportation systems, transportation interconnectivity, stormwater, utilities and telecommunications facilities (including capacity), vegetation and other elements of the natural environment, noise, hours of operation, and other factors that the town council finds applicable; and additional regulations and requirements imposed by the town council, as provided in article X of this chapter:...

(11) Group development of commercial and residential buildings, provided:

- a. Minimum size of any building shall be 2,500 square feet.
- b. All buildings constructed within 35 feet of another building within the development are to be connected by a breezeway or covered walkway.
- c. Lot shall be serviced by an existing community wastewater treatment facility permitted by NC DEQ DWR.
- d. Residential density shall be limited to RS-8 District allowances as established within Sec. 36-203(a).
- e. No more than 40% lot coverage of the net parcel area can be associated with building footprints containing residential uses and the required parking for residential uses.

...

**ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.**

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons and any additional reasons supporting the Town's adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

**ARTICLE V. Severability.**

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

**ARTICLE VI. Effective Date.**

This ordinance amendment shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 2022.

Elizabeth Morey, Mayor

1 ATTEST:

2  
3 \_\_\_\_\_  
4 Town Clerk  
5

6  
7 APPROVED AS TO FORM:

8  
9 \_\_\_\_\_  
10 Town Attorney  
11

12 Date adopted:

13  
14 \_\_\_\_\_  
15 Motion to adopt by Councilmember:

16  
17 \_\_\_\_\_  
18 Motion seconded by Councilmember:  
19

Vote: \_\_\_AYES\_\_\_NAYS



## Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

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PB ZTA-22-06

5-19-22

Ordinance 2022-XX-XX

### AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

#### ARTICLE I. Purpose(s) and Authority.

**WHEREAS**, pursuant to N.C.G.S. § 160D-701, the Town of Southern Shores (the "Town") may enact and amend ordinances regulating the zoning and development of land within its jurisdiction. Pursuant to this authority and the additional authority granted by N.C.G.S. § 160D-702, the Town has adopted a comprehensive zoning ordinance (the "Town's Zoning Ordinance") and has codified the same as Chapter 36 of the Town's Code of Ordinances (the "Town Code"); and

**WHEREAS**, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, and general welfare for the Town to amend the Town's Zoning Ordinance as stated below.

#### ARTICLE II. Construction.

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...

(c) *Conditional uses.* The following uses shall be permitted as a conditional use, subject to the requirements of this district; shall be subject to conditions and modifications

Town of Southern Shores, NC

PB ZTA-22-06

5-19-22

Page 1 of 3

relating to impacts on adjacent properties, transportation and transportation systems, transportation interconnectivity, stormwater, utilities and telecommunications facilities (including capacity), vegetation and other elements of the natural environment, noise, hours of operation, and other factors that the town council finds applicable; and additional regulations and requirements imposed by the town council, as provided in article X of this chapter:...

(11) Mixed use group development of commercial and residential buildings, provided:

- a. Minimum size of any building shall be 2,500 square feet.
- b. All buildings constructed within 35 feet of another building within the development are to be connected by a breezeway or covered walkway.
- c. Lot shall be serviced by an existing community wastewater treatment facility permitted by NC DEQ DWR.
- d. Residential density shall be limited to RS-8 District allowances as established within Sec. 36-203(a).
- e. A minimum of 25 percent and no more than 40 percent lot coverage of the net parcel area can be associated with building footprints containing residential uses and the required parking for residential uses.
- f. Minimum front yard (setback): 25 ft.
- g. Minimum side yard (setback): 15 ft. An additional five-foot-yard adjacent to the street is required for a corner lot.
- h. Minimum rear yard (setback): 20 ft.
- i. Maximum building height shall be 35 feet, measured from the average of the existing, undisturbed grade at the building corners.
- j. No building or other facility (such as parking spaces, incinerators, trash collection areas, etc.) shall be located nearer than 50 feet to boundaries of residential districts.
- k. Where a mixed use group development abuts a residential zone, a buffer of dense vegetative planting or natural vegetation is required (see requirements in Section 36-207(8)).
- l. Maximum allowable lot coverage of the net parcel area by principal use and all accessory structures, in the aggregate, for the entire mixed use group development, shall be 50 percent.
- m. Mixed use group developments which incorporate the use of permeable pavement, as outlined in Section 36-207(d)(5)a., in excess of 5 percent of the total lot coverage shall be allowed a maximum allowable lot coverage by principal use and all accessory structures, of no greater than 55 percent.

...



**ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.**

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons and any additional reasons supporting the Town's adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

**ARTICLE V. Severability.**

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

**ARTICLE VI. Effective Date.**

This ordinance amendment shall be in full force and effect from and after the \_\_\_\_day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Elizabeth Morey, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

Date adopted:

\_\_\_\_\_  
Motion to adopt by Councilmember:

\_\_\_\_\_  
Motion seconded by Councilmember:

Vote: \_\_\_\_AYES\_\_\_\_NAYS

## STAFF REPORT

**To:** Southern Shores Town Council  
**Date:** June 7, 2022  
**Case:** ZTA-22-06  
**Prepared By:** Wes Haskett, Deputy Town Manager/Planning Director

### GENERAL INFORMATION

**Applicant:** Ginguite, LLC  
 Attn: Sumit Gupta  
 P.O. Box 90  
 Kill Devil Hills, NC 27948

**Applicant's Representative:** Michael W. Strader, Jr., PE  
 Quible & Associates, P.C.  
 P.O. Drawer 70  
 Kitty Hawk, NC 27949

**Requested Action:** Amendment of the Town Zoning Ordinance by amending Section 36-207(c), Conditional Uses.

### ANALYSIS

The applicant is proposing a Zoning Text Amendment (ZTA) to amend Section 36-207(c) to allow the group development of commercial and residential buildings as a Conditional Use in the C, General Commercial zoning district. The use would be permitted through the issuance of a Conditional Use Permit (Special Use Permit per 160D Statutes). Section 36-207 currently allows the group development of commercial buildings only (the Marketplace and Southern Shores Crossing). Section 36-207 also currently allows residential uses including detached single-family dwellings, two-family (duplexes) dwellings, multifamily dwellings, and accessory buildings, but such uses would be limited to only one principal building and its customary accessory building on any lot. If approved, the ZTA would allow group developments consisting of multiple principal commercial and residential buildings on a single lot subject to the following requirements:

- a. Minimum size of any building shall be 2,500 square feet.
- b. All buildings constructed within 35 feet of another building within the development are to be connected by a breezeway or covered walkway.
- c. Lot shall be serviced by an existing community wastewater treatment facility permitted by NC DEQ DWR.
- d. Residential density shall be limited to RS-8 District allowances as established within Sec. 36-203(a).
- e. No more than 40% lot coverage of the net parcel area can be associated with building footprints containing residential uses and the required parking for residential uses.

With respect to lot coverage, two calculations would be required in order to demonstrate compliance (if the ZTA and a site plan are approved). One lot coverage calculation would need to show that the total lot coverage for the development does not exceed 60% of the total lot area,

or 67% if permeable pavement in excess of 5 percent of the total lot coverage is provided. The other lot coverage calculation would need to show that the lot coverage for residential building footprints and residential parking spaces does not exceed 40% of the net parcel area. Net parcel area is defined as the total area to be developed minus any area covered by waterways, marshes or wetlands.

The following properties could potentially meet the proposed requirements for group developments consisting of commercial and residential buildings:

- 5391 N. Virginia Dare Trl. (Stone property): 7.9 acres
- 5500 N. Croatan Hwy. (Marketplace): 18.1 acres
- 5355 N. Croatan Hwy. (Southern Shores Realty Maintenance): 4.1 acres
- 1 Ocean Blvd. (Southern Shores Crossing)
- 6195 N. Croatan Hwy. (Ginguite, LLC): 5.2 acres

The Town's currently adopted Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- **Policy 2:** The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low-density residential community comprised of single-family dwellings on large lots (served by a small commercial district for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

## **RECOMMENDATION**

During your consideration, questions and discussion should mainly focus on the ZTA and not on a potential site plan for the proposed use. Policy 2 of the Town's Land Use Plan establishes the commercial district as a small district for convenience shopping and services. The Land Use Plan also establishes that incompatible uses in the commercial area are limited to "residential (low density)", educational, and conservation activities. Since commercial and residential group developments will most likely consist of high density residential development mixed with commercial development, Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Land Use Plan.

Town Staff and Chairperson Ward spent a considerable amount of time reviewing and discussing the application. As a result, Chairperson Ward suggested additional requirements to be added to the proposed language that clarify the requirements for "mixed use group developments" by showing them in one section of the Zoning Ordinance. Another additional requirement establishes a 50% lot coverage requirement based on the net parcel area, or 55% if permeable pavement is used in excess of 5 percent of the total lot coverage. The Town Planning Board determined that the application is consistent with the Town's currently adopted Land Use Plan and recommended denial (4-1) of the application as presented. However, it recommended approval of the ZTA with Chairperson Ward's additional requirements and a minimum 25% lot coverage requirement for residential building footprints and parking spaces.

The Board's recommended requirements are shown in PB-ZTA-22-06. Town Staff recommends

approval of the application with the Planning Board's recommended requirements. Going forward, Council has the following options:

1. Approve the ZTA as presented.
2. Deny the ZTA as presented.
3. Table consideration of the ZTA.
4. Approve the ZTA with the Planning Board's recommended requirements.
5. Amend the ZTA (which may require another Planning Board review).
6. Send the ZTA back to the Planning Board for further discussion.

## Recommended Additional Conditions for Mixed Use Group Development

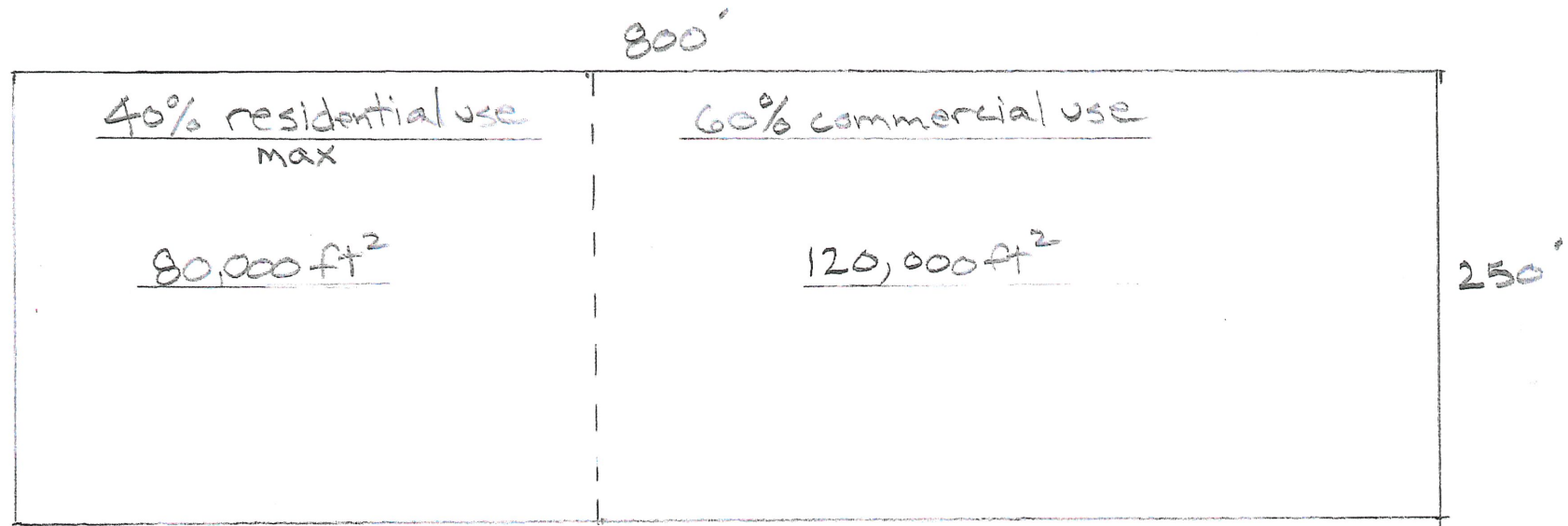
### Dimensional requirements (per RS-8 and C general commercial district)

1. Minimum front yard (setback) 25 feet.
2. Minimum side yard (setback) 15 feet. An additional five-foot-yard adjacent to the street is required for a corner lot.
3. Minimum rear yard (setback) 20 feet.
4. Maximum building height shall be 35 feet, measured from the average of the existing, undisturbed grade at the building corners.
5. No building or other facility (such as parking areas, incinerators, trash collection areas, etc.) shall be located nearer than 50 feet to boundaries of residential districts
6. Where a mixed use group development abuts a residential zone, a buffer of dense vegetative planting or natural vegetation is required. (see requirements in section 36-207 *dimensional requirements*, (8).

### Lot coverage for mixed use group development

This language incorporates the applicant's lot coverage proposal in ZTA- 22-06 and is no less restrictive than what is currently being proposed by the applicant.  
See sketch for clarification.

1. Maximum allowable lot coverage of the **net parcel area** (see Sec. 36-57 *definitions*, net acreage) by principal use and all accessory structures, in the aggregate, for the entire mixed use group development, shall be 50 percent.
2. Mixed use group developments which incorporate the use of permeable pavement, as outlined in 36-207 5(c), in excess of 5% of the total lot coverage shall be allowed a maximum allowable lot coverage by principle use and all accessory structures, of no greater than 55 percent.



Based on 200,000 ft<sup>2</sup> net<sup>\*</sup> parcel in the C commercial zone

If all commercial use @ 60% coverage

$$200,000 \text{ ft}^2 @ 60\% = \textcircled{A} 120,000 \text{ ft}^2$$

If all residential use (per RS-8 regs) @ 40% coverage

$$200,000 \text{ ft}^2 @ 40\% = \textcircled{B} 80,000 \text{ ft}^2$$

Avg. (mixed) 100,000 ft<sup>2</sup> which is 50% coverage of net<sup>\*</sup> parcel

$$A + B \div 2$$

From Sec 36-57 definitions:

\* Net acreage means total area to be developed minus any area covered by  
- water ways, marshes or wetlands



## AGENDA ITEM SUMMARY FORM

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**MEETING DATE:** June 7, 2022

**ITEM TITLE:** Planning Board Appointments

**ITEM SUMMARY:**

The appointment terms assigned to Planning Board members Lynda Burek and Tony DiBernardo expire on June 30, 2022. Both members have indicated that they are interested in serving another three-year term. The second alternate member position recently became vacant following the passing of Richard Galganski. Town Staff has one application on file from James Daniel Fink (Dan) and he has confirmed that he is interested in filling the vacancy.

**STAFF RECOMMENDATION:**

Appointment of Dan Fink to alternate position 2 and reappointment of Lynda Burek and Tony DiBernardo to three-year terms that expire on June 30, 2025.

**REQUESTED ACTION:**

Motion to appoint Dan Fink to alternate position 2 and reappointment of Lynda Burek and Tony DiBernardo to three-year terms that expire on June 30, 2025.

**SOUTHERN SHORES PLANNING BOARD**  
*BOARD MEMBER STATUS AS OF 5/23/2022*

		Cycle	Term of Appt.	TERM OF APPOINTMENT			
		and	Vacancy Created	Start	End		
		Term	by Departure of:	Term	Term		
<b>SEATED MEMBERS (Voting)</b>							
1	Ed Lawler	B1	Glenn Wyder	1-Jul-20	30-Jun-23	Seated	
2	Lynda Burek	A2	Don Sowder	1-Jul-19	30-Jun-22	Seated	
3	Robert McClendon	C1	David Neal	1-Jul-21	30-Jun-24	Seated	
4	Andy Ward	C2	Sam Williams	1-Jul-21	30-Jun-24	Chair	
5	Tony DiBernardo	A1	Elizabeth Morey	1-Jul-19	30-Jun-22	Seated	
<b>ALTERNATE MEMBERS (Non-Voting)</b>							
1	Jan Collins	C3	Robert McClendon	1-Jul-21	30-Jun-24	Alternate 1st	
2	VACANT	B2	Richard Galganski	1-Jul-21	30-Jun-24	Alternate 2nd	
<b>ETJ MEMBER (Votes on items that affect Martin's Point)</b>							
	COUNTY APPOINTED						
	John Finelli	C3		1-Jul-21	30-Jun-24	ETJ	



SOUTHERN SHORES PLANNING BOARD  
BOARD MEMBER STATUS AS OF 5/23/2022

Item 8.


# TOWN OF SOUTHERN SHORES BOARD VOLUNTEER APPLICATION

DATE: 8/3/2021

Municipal Board(s), Commission(s), or Committee(s) interested in: Planning Board

NAME: James Daniel Fink (Dan)

PHONE: (HOME) 703-582-3930

PHONE: (WORK) N/A

Email: [contactdanfink@gmail.com](mailto:contactdanfink@gmail.com)

ADDRESS: 116 Tea Plant Ct

### OCCUPATION (Past & Present)

EMPLOYER

Retired Federal Employee

## Strategy and Management Consultant

Acquisition/Logistics Management Specialist

KPMG, LLP et al

Department of Navy

## EDUCATIONAL BACKGROUND

School(s)	Dates	Area of Study	Cert or Degree
University of Southern California	1976	Systems Management	M. S.
Loyola College	1968	Political Science	B. S.
George Mason University,	2006	Six Sigma Blackbelt	Cert
Defense Acquisition University	1991	Level 3 Acquisition Professional	Cert

Specific experiences, training or interest, which you have that you feel would be useful in the work of this Board, Commission, or Committee: (Use additional pages if needed)

I offer broad and deep experience tying strategy to vision, aligning budgets, plans, and execution accordingly and controlling changes.

I lived and participated in an exemplary planned community (Reston, VA) and came to appreciate how good property governance preserves quality of life.